



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

amending Council Regulation (EC) No 41/2007 as concerns the recovery plan for bluefin tuna recommended by the International Commission for the Conservation of Atlantic Tunas

(presented by the Commission)

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The purpose of this proposal is to implement at a Community level the recovery plan for bluefin tuna adopted by ICCAT, for 2007 pending the adoption of a Council Regulation implementing multi-annual measures for the recovery of the bluefin tuna stock.

- **General context**

The European Community participates in a number of regional fisheries organisations which provide a framework for regional cooperation on the conservation and management of certain stocks of highly migratory species. These organisations adopt recommendations, including Total Allowable Catch (TAC) and quotas, technical measures for the fixing of minimum sizes for fish, closed areas and seasons, restriction on fishing effort and control measures. The recommendations become binding on Contracting Parties which do not object to them. As a Contracting Party to those organisations, the Community has a responsibility to apply recommendations adopted to which it has raised no objections.

The Community is a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT) since November 1997. It is therefore necessary to implement the recommendations adopted by ICCAT into Community law to ensure sustainable management of the resources under the jurisdiction of that organisation.

At its Annual Meeting in 2006, the ICCAT adopted a 15 year Recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.

In order to rebuild the stock, the ICCAT Recovery plan provides for a reduction of the TAC level until 2010, restriction on fishing within certain areas and time periods, a new minimum size, measures concerning sport and recreational fishing activities as well as control measures and the implementation of the ICCAT Scheme of Joint International Inspection to ensure the effectiveness of that plan.

In addition, ICCAT decided on an allocation scheme to share the TAC between the Contracting Parties at the ICCAT Meeting in Tokyo held on 29-31 January 2007.

Based on the quota attributed by ICCAT to the European Community it will be necessary for the Council to review the provisional quota and associated conditions fixed by the Fishery Council in December 2006 and will decide on catch limits for 2007 and on the allocation of fishing opportunities among Member States as well as the conditions associated with those limits.

Since the fishery for bluefin tuna by Community vessels will start in February, and since the measures for the management and control of this fishery as agreed upon by ICCAT concern the whole of the fishing season, it is necessary to apply these measures as from February 2007 instead of the entry into force on 13 June 2007 in accordance with ICCAT rules, in order to ensure the compliance with the Recovery Plan for

bluefin tuna, with the exception of the minimum size provisions which enter into force on 13 June 2007.

In this context, it is necessary to implement these measures in 2007 through a modification of the Council Regulation fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, pending the adoption of a Council Regulation, based on Article 37, implementing multi-annual measures to recover the bluefin tuna stock on a permanent basis.

- **Existing provisions in the area of the proposal**

Some technical measures adopted by ICCAT for bluefin tuna have now been incorporated in Community law as Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratory species (OJ L 137, 19.5.2001) as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004) and on a provisional basis in Regulation (EC) No 41/2007 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in the Community waters and, for Community vessels, in waters where catch limitations are required. Technical measures include the minimum size of bluefin tuna and closed fishing areas and seasons which have been modified at the Annual Meeting of ICCAT in 2006, the current legislation in force should therefore be updated.

- **Consistency with other policies and objectives of the Union**

The proposal is in keeping with the general pattern of the sustainable exploitation of tuna stocks in compliance with the objectives of the Common Fisheries Policy and contributes to sustainable development.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

In order to prepare the Community position in the context of the negotiations that take place at annual meetings of ICCAT, the Commission consults with Member States, those involved in the industry and NGOs.

Summary of responses and how they have been taken into account

The main sectors consulted have approved the Community position on the adoption of a multi-annual Recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.

- **Collection and use of expertise**

Scientific/expertise domains concerned

Scientific Committee of ICCAT

Methodology used

The Scientific Committee assesses the stocks and recommends the adoption of management and conservation measures to ensure the sustainable exploitation of tuna stocks, in particular through the adoption of technical measures.

Main organisations/experts consulted

Scientific Committee of ICCAT

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has been mentioned. There is unanimity on the existence of such risks.

The existence of such risks is universally accepted. The Scientific Committee of ICCAT has indicated in its 2006 stock assessment that the spawning stock biomass for bluefin tuna continues to decline, while fishing mortality is increasing rapidly, especially for large fish.

The Scientific Committee has indicated a possible collapse of this stock in the near future unless adequate management measures are implemented.

The Scientific Committee of ICCAT has recommended the adoption of measures to ensure the sustainable exploitation of bluefin tuna, principally through the fixing of minimum size and closed fishing areas and season.

Means used to make the expert advice publicly available

The opinions of the Scientific Committee are published on the ICCAT website.

- **Impact assessment**

The aim of the Recovery plan for bluefin tuna is to ensure the sustainable exploitation of bluefin tuna and in particular to reduce the fishing mortality of both juveniles and adult fish by a combination of closed fishing seasons and increased minimum size.

The Recovery plan implemented at the Community level, will apply to Community fishermen fishing for bluefin tuna in the Eastern Atlantic Ocean and Mediterranean Sea.

3) LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

Transposal into Community law of measures adopted by ICCAT responsible for the management of tuna species to which the European Community is a Contracting Party.

- **Legal basis**

Article 20 of the Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the principle of proportionality, for the following reasons:

The recommendations adopted by the regional fisheries organisations are directly enforceable by the Community and the Member States. However, in the interests of clarity and transparency, they are incorporated in a Council regulation in order to clarify them so that they can be better applied by the Member States and fishermen.

There are no financial consequences.

- **Choice of instruments**

Proposed instruments: regulation.

Other means would not be adequate for the following reason(s).

Recommendations adopted by Regional Fisheries Organisations are transposed in a Council Regulation.

4) **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

5) **ADDITIONAL INFORMATION**

- **Detailed explanation of the proposal**

This proposal seeks to transpose the Recovery plan for bluefin tuna adopted by ICCAT including inter alia TAC and quota, technical measures for the fixing of minimum size for bluefin tuna, closed areas and seasons and control measures.

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THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community;

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹, and in particular Article 20 thereof;

Having regard to the proposal from the Commission;

Whereas:

- (1) Regulation (EC) No 41/2007 fixes for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in community waters and, for Community vessels, in waters where catch limitations are required.²
- (2) The Community has, since 14 November 1997, been a Party to the International Convention for the Conservation of Atlantic Tunas³.
- (3) At its Annual Meeting in November 2006, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 2006[05] to establish a 15-year recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean.
- (4) Regulation (EC) No 41/2007 the fishing opportunities and associated conditions for bluefin tuna were fixed on a provisional basis, pending an agreement on the final share of this stock under the ICCAT convention.
- (5) In order to rebuild the stock, the ICCAT recovery plan provides for a graduated reduction of the Total Allowable Catch (TAC) level from 2007 to 2010, restrictions on fishing within certain areas and time period, a new minimum size for bluefin tuna, measures concerning sport and recreational fishing activities as well as control measures and the implementation of the ICCAT Scheme of Joint International Inspection to ensure the effectiveness of the recovery plan. In order to contribute to the

¹ OJ L 358, 31.12.2002, p.59

² OJ L 15, 20.1.2007, p.1

³ OJ L 162, 18.6.1986, p. 33

conservation of bluefin tuna, it is necessary to implement those measures from 2007 pending the adoption of a Council Regulation implementing multi-annual measures for the recovery of the bluefin tuna stock.

- (6) Since the fishery for bluefin tuna by Community vessels will start in February 2007, it is necessary to apply the management and control measures for this fishery as agreed upon by ICCAT as from February 2007 instead of 13 June 2007 as mentioned in the ICCAT Recommendation 2006 [05] in order to ensure the compliance with the recovery plan for bluefin tuna.
- (7) Regulation (EC) No 41/2007 should therefore be amended accordingly.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 41/2007 is amended as follows:

1. The following Chapter shall be inserted:

"CHAPTER Xa

**Multi-annual Recovery Plan for Bluefin Tuna in the Eastern
Atlantic and Mediterranean**

**SECTION 1
MANAGEMENT MEASURES**

Article 80a
Scope

This Chapter lays down the general rules for the application by the Community of a Multi-annual Recovery Plan for Bluefin Tuna (*thunnus thynnus*) recommended by the International Commission for the Conservation of the Atlantic Tunas (ICCAT). It shall apply to bluefin tuna in the Eastern Atlantic and the Mediterranean.

The objective of that recovery plan shall be to achieve a biomass corresponding to the maximum sustainable yield (Bmsy) with greater than 50% probability.

Article 80b
Definitions

For the purpose of this Chapter, the following definitions shall apply:

- a) "CPCs" means Contracting Parties to the International Convention for the Conservation of the Atlantic Tuna and Cooperating Non-Contracting Parties, Entities or Fishing Entities.
- b) "Fishing vessel" means any vessel used or intended for use for the purposes of the commercial exploitation of tuna resources, included fish processing vessels and vessels engaged in transshipment;
- c) "Joint fishing operation" means any operations between two or more vessels flying the flag of different ICCAT CPCs or of Member States where catch is transferred from the fishing gear of one vessel to another;
- d) "Transfer activities" means any transfer of bluefin tuna
 - (i) from the fishing vessel to the end fattening bluefin tuna farm, including for the fish dead or escaped during the transport,
 - (ii) from a bluefin tuna farm or a tuna trap to a processing vessel, transport vessel or to land.
- e) "Tuna trap" means fixed gear anchored to the bottom usually containing a guide net that leads fish into an enclosure.
- f) "Caging" means that bluefin tuna is not taken on board and includes both, fattening and farming,
- g) "Fattening" means caging of bluefin tuna for a short period (2-6 months) aiming mostly at increasing the fat content of the fish,
- h) "Farming" means caging of bluefin tuna for a period longer than one year, aiming to increase the total biomass,
- i) "Transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel at port,
- j) "Processing vessel" means a vessel on board of which fisheries products are subject to one or more of the following operations, prior to their packaging : filleting or slicing, freezing and/or transformation
- k) "Sport fishery" means a non-commercial fishery whose participants adhere to a national sport organisation or are issued with a national sport licence.
- l) "Recreational fishery" means a non-commercial fishery whose participants do not adhere to a national sport organisation or are not issued with a national sport licence.

- m) "Task II" means task II as defined by the International Commission for the Conservation of the Atlantic Tunas (ICCAT) in the "Field manual for statistics and sampling Atlantic tunas and tuna-like fish" (Third edition, ICCAT, 1990).

Article 80c

1. Each Member State may allocate its bluefin tuna quota to its fishing vessels and traps authorised to fish actively for bluefin tuna.
2. Private trade arrangements between nationals of a Member State and a CPC in order to use a fishing vessel flying the flag of that Member State for fishing in the framework of a tuna quota of an ICCAT CPC, shall be concluded only under authorisation by the Member State concerned which shall inform the Commission.

Article 80d

Joint Fishing operations

1. Joint fishing operations for bluefin tuna involving vessels flying the flag of a Member State shall only be authorised with the consent of the Flag Member State concerned
2. Each Member State shall take the necessary measures to obtain from its fishing vessel participating in the joint fishing operation detailed information concerning the duration of the joint operation and the identity of the operators involved.
3. Each Member State shall transmit the information referred to in paragraph 2 to the ICCAT Secretariat and the Commission.

SECTION 2
TECHNICAL MEASURES

Article 80e

Closed fishing season

By way of derogation from the provision laid down in Article 5 of Regulation (EC) N° 973/2001:

- (a) Bluefin tuna fishing shall be prohibited in the East Atlantic and Mediterranean by large-scale pelagic longline vessels over 24 m during the period from 1 June to 31 December 2007, with the exception of the area delimited by West of 10°W and North of 42° N.
- (b) Purse seine fishing for bluefin tuna shall be prohibited in the East Atlantic and Mediterranean during the period from 1 July to 31 December 2007.
- (c) Bluefin tuna fishing by bait boats shall be prohibited in the East Atlantic and Mediterranean during the period from 15 November to 15 May 2008.

- (d) Bluefin tuna fishing by pelagic trawlers shall be prohibited in the East Atlantic during the period from 15 November to 15 May 2008.

Article 80f
Use of planes

By way of derogation from the provision laid down in Article 5 of Regulation (EC) N° 973/2001 Member States shall take necessary measures to prohibit the use of airplanes or helicopters for searching for bluefin tuna in the Convention Area.

Article 80g
Minimum size

1. By way of derogation from Annex IV of Regulation (EC) N° 973/2001, the minimum size for bluefin tuna in the East Atlantic and in the Mediterranean Sea shall be 30 kg with effect from 13 June 2007.
2. By derogation to paragraph 1 and without prejudice to Article 80i, a minimum size for bluefin tuna (*Thunnus thynnus*) of 8 kg shall apply for the following bluefin tunas, with effect from 13 June 2007:
 - a) bluefin tuna caught in the Eastern Atlantic by bait boats, trolling boats and pelagic trawlers.
 - b) bluefin tuna caught in the Adriatic Sea for farming purposes.
3. The additional specific conditions for bluefin tuna caught in the Eastern Atlantic by bait boats, trolling boats and pelagic trawlers are set out in Part I of Annex XVIa.

Article 80h
Sampling plan for bluefin tuna

1. By way of derogation from the provisions laid down in Article 5a of Regulation (EC) No 973/2001, each Member State shall establish a sampling programme for the estimation of the numbers-at-size of the bluefin tuna captured.
2. Sampling by size in cages shall be carried out on a sample of 100 specimens per 100 tonnes of live fish or on a sample of 10% of the total number of fish placed in a cage. The size sample, on basis of length or weight, shall be taken during harvesting at the farm, and on the dead fish during transport in accordance with the method adopted by the ICCAT for notifying data in the framework of Task II.
3. Additional methods and samplings shall be developed for fish reared for more than one year.
4. Sampling shall be carried out during a harvest taken at random and shall cover all cages. The data shall be notified to the ICCAT by 31 May 2008 for sampling carried out the previous year in 2007.

Article 80i
By-catch

1. A by-catch of maximum 8 % of bluefin tuna weighing less than 30 kg and no less than 10 kg shall be authorised for fishing vessels, fishing actively or not for bluefin tuna.
2. The percentage mentioned in paragraph 1 shall be calculated either on the basis of the total by-catch in number of fish per landing of the total bluefin tuna catches of these vessels, or on basis of its weight equivalence in percentage.
3. By-catch must be deducted from the quota of the flag Member State. The discard of dead fish shall be prohibited and shall be deducted from the quota of the flag Member State.
4. Articles 80n and 80p(3) shall apply to landings of by-catch of bluefin tuna.

Article 80j
Recreational fisheries

1. In the framework of recreational fisheries it shall be prohibited to catch, retain on board, tranship and land more than one piece of bluefin tuna in each sea trip.
2. The marketing of bluefin tuna caught in recreational fishing shall be prohibited except for charitable purposes.
3. Each Member State shall record catch data from recreational fishing and transmit this data to the Standing Committee on Research and Statistics of ICCAT.
4. Each Member State shall take the necessary measures to ensure, to the greatest extent possible, the release of bluefin tuna caught alive, especially juveniles, in the framework of recreational fishing.

Article 80k
Sport fisheries

1. Member States shall take the necessary measures to regulate sport fishing, notably by fishing authorisations.
2. The marketing of bluefin tuna caught in sport fishing competitions shall be prohibited except for charitable purposes.
3. Each Member State shall record catch data from sport fishing and transmit this data to the Standing Committee on Research and Statistics of ICCAT.
4. Each Member State shall take the necessary measures to ensure, to the greatest extent possible, the release of the bluefin tuna caught alive, especially juveniles, in the framework of sport fishing.

SECTION 3 CONTROL MEASURES

Article 80l

Register of vessels authorised to fish for bluefin tuna

1. By 1 April 2007, each Member State shall send the Commission electronically a list of all fishing vessels flying its flag authorised to fish actively for bluefin tuna in the Eastern Atlantic and Mediterranean Sea by issue of a special fishing permit.
2. The Commission shall send this information to the ICCAT Executive Secretariat so that those vessels can be entered on the ICCAT record of vessels authorised to fish for bluefin tuna.
3. Community fishing vessels not entered into the ICCAT record may not fish for, retain on board, tranship, transport, transfer or land bluefin tuna in the Eastern Atlantic and Mediterranean Sea.
4. Article 8a (2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply *mutatis mutandis*.

Article 80m

Register of tuna traps authorised to fish for bluefin tuna

1. By 1 April 2007, each Member State shall send the Commission electronically a list of its authorised tuna traps authorised to fish for bluefin tuna in the Eastern Atlantic and Mediterranean Sea by issue of a special fishing licence. The list shall include the name of the traps and the register number.
2. The Commission shall send the list to the ICCAT Executive Secretariat before 15 April 2007 so that these tuna traps can be entered on the ICCAT record of tuna traps authorised to fish for bluefin tuna.
3. Community tuna traps not entered into the ICCAT record may not fish for, retain, tranship or land bluefin tuna in the Eastern Atlantic and Mediterranean Sea.
4. Article 8a (2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply *mutatis mutandis*.

Article 80n

Designated ports

1. It shall be prohibited to land and or tranship from vessels referred to in Article 80l any quantity of bluefin tuna fished in East Atlantic and Mediterranean Sea at any place other than ports designated by CPCs.

2. Member States shall designate a place to be used for landing or a place close to the shore (designated ports) where landing or transshipment operations of bluefin tuna are permitted.

3. Member States shall transmit to the Commission no later than 1 April 2007 a list of designated ports. The Commission shall send this information to the ICCAT Executive Secretariat before 15 April 2007. Any subsequent changes to the list shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, at least 15 days before the change shall come into force.

Article 80o
Transshipment

1. By way of derogation from Article 11 of Regulation (EEC) No 2847/93 transshipment at sea of bluefin tuna in the East Atlantic and Mediterranean Sea shall be prohibited, except for large-scale tuna longline fishing vessels operating in accordance with ICCAT *Recommendation 2005[06] establishing a programme for transshipment for large-scale tuna longline fishing vessels*, as amended.

2. Prior to entry into any port, the master of the receiving vessels (catching vessel or processing vessel) or his representative, shall provide the competent authorities of the Member State whose port he wants to use or competent authorities of the Member State of the flag concerned at least 48 h before the estimated time of arrival with the following:

- a) estimated time of arrival,
- b) estimated quantity of bluefin tuna retained on board,
- c) information on the geographical area where the catches were taken;
- d) the name of the catching vessel and its number in the ICCAT record of authorised fishing vessels for bluefin tuna,
- e) the name of the receiving vessel, its number in the ICCAT record of authorised fishing vessels for bluefin tuna,
- f) the tonnage of bluefin tuna to be transhipped,

3. Catching fishing vessels shall not be allowed to tranship, unless they have obtained prior authorisation from their flag state.

4. The master of the catching vessel shall, at the time of the transshipment, inform its Flag State of the following:

- a) the quantities of bluefin tuna transhipped,
- b) the date and port of the transshipment,
- c) the name, registration number and flag of the receiving vessel and its number in the ICCAT record of authorised fishing vessels for bluefin tuna,

d) the geographical area of the tuna catches

5. The competent authority of the Member State in which port the transshipment takes place or the competent authorities of the Member State of the farm concerned shall inspect the receiving vessel on arrival and check the cargo and documentation related to the transshipment operation.

6. The competent authority of the Member State of which port the transshipment takes place or the competent authorities of the Member State of the farm concerned, shall send a record of the transshipment to the flag State authority of the catching vessel, within 48 hours after the transshipment has ended.

7. The masters of Community vessels referred to in Article 80l shall complete and transmit the ICCAT transshipment declaration to the competent authorities of the Member State whose flag the vessels are flying. The declaration shall be transmitted no later than 15 days after the date of transshipment in port in accordance with the format set out in Part III of Annex XVIa.

Article 80p
Recording requirements

1. In addition to complying with Article 6 and 8 of Regulation (EEC) No 2847/93, masters of the Community vessels referred to in Article 80l shall enter in the logbook the information listed in Part II of Annex XVIa.

2. The masters of the Community vessels referred to in Article 80l engaged in a joint fishing operation shall record the following information in their logbook:

a) where the catch is taken on board or transferred into cages:

- the date and the time,
- the location (longitude/latitude),
- amount of catches taken on board, or transferred into cages,
- the name and international radio call sign of the fishing vessel by whose gear the catch has been taken,

b) where the catch is not taken on board or is in a net before transfer activities or transferred into cages:

- the date and the time,
- the location (longitude/latitude),
- that no catches have been taken on board or have been transferred into cages,
- the name and international radio call sign of the catching fishing vessel by whose gear the catch has been taken.

3. By way of derogation from the provision of Article 7 of Regulation (EEC) No 2847/93, masters of the Community vessels referred to in Article 80l of this Regulation or their representative shall notify the competent authority of the Member State whose ports or landing facility they wish to use at least 4 hours before the estimated time of arrival at the port, of the following:
 - a) estimated time of arrival,
 - b) estimate of quantity of bluefin tuna retain on board,
 - c) information on the zone where the catches were taken;
4. The relevant authority of the Member State shall send a record of the landing to the flag authority of the vessel, within 48 hours after the landing has ended.

Article 80q
Inspection in port or in farm

1. Member States shall take the necessary measures to ensure that all vessels referred to in ICCAT Record of vessel authorised to fish for bluefin tuna entering a designated port to land and/or tranship bluefin tuna caught in the Eastern Atlantic and Mediterranean Sea are submitted to an inspection in port.
2. Member States shall take the necessary measures to inspect the caging operation in the farms falling under their jurisdiction.
3. When the farms are located beyond waters under jurisdiction of Member States, the provisions of paragraph 2 shall apply, mutatis mutandis, to Member States where the natural or legal persons responsible for the farm are established.

Article 80r
Catch reports

1. The masters of Community fishing vessels referred to in Article 80l shall send to the competent authorities of their flag Member State a 'catch report' stating the quantities of bluefin tuna, including zero catch returns.
2. The report shall for the first time be transmitted at the latest at the end of the ten days after the entry into Eastern Atlantic and Mediterranean Sea or after the beginning of the fishing trip. In the case of joint operations the master shall indicate for which vessel or vessels the catches shall be counted against the quota of the Flag State.
3. From 1 June 2007, the masters of fishing vessels shall transmit the report on the quantity of bluefin tuna, including zero catch returns on a 5 days basis.
4. Each Member State shall, upon receipt, forward catch reports by electronic means or other means to the ICCAT Secretariat.
5. Member States shall inform the Commission, by computer-readable form, before the fifteenth day of each month, of the quantities of bluefin tuna caught in the Eastern Atlantic

and Mediterranean Sea which have been landed, transhipped or caged by the vessel flying their flag during the preceding month.

Article 80s
Cross check

1. Member States shall verify, including by using VMS (Vessel Monitoring System) data, the submission of logbooks and relevant information recorded in the logbooks of their vessels, in the transfer/transhipment document and in the catch documents.
2. The Member States shall carry out administrative cross checks on all landings, all transhipment or caging between the quantities by species recorded in the vessels logbook or quantities by species recorded in the transhipment declaration and the quantities recorded in the landing declaration or caging declaration, and any other relevant document, such as invoice and/or sales notes.

Article 80t
Caging operations

1. The Member State under whose jurisdiction the farm for bluefin tuna is located shall submit within one week of the completion of the caging operation a caging report, validated by an observer, to the Member State or Contracting Party whose flag vessels have fished the tuna and to ICCAT Secretariat. This report shall contain the information included in the caging declaration as referred to in Article 4 b of Regulation (EC) No 1936/2001.
2. When the fattening farms are located beyond waters under the jurisdiction of Member States, paragraph 1 shall apply, *mutatis mutandis*, to Member States where the natural or legal persons responsible for fattening farms are established.
3. Before any transfer activity, the flag Member State of the catching vessel shall be informed by the competent authority of the farm Member State of the transfer into cage of quantities caught by fishing vessels flying its flag. The Flag Member State of the catching vessel shall request the competent authority of the farm Member State to proceed to the seizure of the catches and the release of the fish into the sea if it considers on receipt of that information that:
 - a) the fishing vessel declared to have caught the fish had not sufficient quota for bluefin tuna put into the cage,
 - b) the quantity of fish has not been duly reported and not taken into account for the calculation of any quota that may be applicable,
 - c) the fishing vessel declared to have caught the fish is not authorised to fish for bluefin tuna.
4. The master of the Community fishing vessels shall complete and transmit to the Flag Member State the ICCAT transfer declaration not later than 15 days after the date of transfer to tug vessels or to the cage, in accordance with the format set out in Part III of Annex XVIa. The transfer declaration shall accompany the transferred fish during transport to the cage.

Article 80u
Trap activities

1. Catches shall be recorded after the end of every fishing operation in tuna traps and the catch record shall be transmitted by electronic means or other means within 48 hours after the end of every fishing operation to the competent authority.
2. Each Member State shall, upon receipt, forward the catch record by electronic means to the ICCAT Secretariat.

Article 80v
Observer programme

1. Each Member State shall ensure observer coverage on its fishing vessels over 15m in length for at least:
 - (a) 20% of its active purse seine vessels. In the case of joint fishing operations, an observer shall be present during the fishing operation,
 - (b) 20% of its active pelagic trawlers,
 - (c) 20% of its active longline vessels,
 - (d) 20% of its active bait boats,
 - (e) 100% during the harvesting process for tuna traps.

The observer tasks shall be, in particular, to:

- (a) monitor a vessel compliance with the present Chapter,
- (b) record and report upon the fishing activity,
- (c) observe and estimate catches and verify entries made in the logbook,
- (d) sight and record vessels which may be fishing contrary to ICCAT conservation measures.

In addition, the observer shall carry out scientific work, such as collecting task II data as defined by ICCAT, when required by the International Commission for the Conservation of the Atlantic Tunas, based on the instructions from the Standing Committee on Research and Statistics of ICCAT.

2. Each Member State under whose jurisdiction the farm for bluefin tuna is located shall ensure an observer presence during all transfer of bluefin tuna to the cages and all harvest of fish from the cage.

The observer tasks shall be, in particular, to:

- (a) observe and monitor farming operation compliance in accordance with Article 4a, 4b and 4c of (EC) Regulation No 1936/2001,

- (b) validate the caging report referred to in Article 80t,
- (c) carry out such scientific work, for example collecting samples, as required by the International Commission for the Conservation of the Atlantic Tunas based on the instructions from the Standing Committee on Research and Statistics of ICCAT.

Article 80w
Enforcement

1. Member States shall take enforcement measures with respect to a vessel, where it has been established, in accordance with their law that the fishing vessel flying its flag does not comply with the provisions of Articles 80e, 80g, 80n, 80o, 80p. The measures may include in particular, depending on the gravity of the offence and in accordance with the pertinent provisions of national law:

- (a) fines,
- (b) seizure of illegal fishing gear and catches,
- (c) sequestration of the vessel,
- (d) suspension or withdrawal of authorisation to fish,
- (e) reduction or withdrawal of the fishing quota, if applicable.

2. Each Member State under whose jurisdiction the farm for bluefin tuna is located shall take enforcement measures with respect to a farm, where it has been established, in accordance with its law that this farm does not comply with the provisions of Articles 80t and 80v(2) of this Regulation and and Article 4a, 4b and 4c of (EC) Regulation No 1936/2001. The measures may include in particular depending on the gravity of the offence and in accordance with the pertinent provisions of national law:

- (a) fines,
- (b) suspension or withdrawal of the record of fattening farm,
- (c) prohibition to put into cages or market quantities of bluefin tuna.

Article 80x
Market measures

1. Internal trade, landing, imports, exports, placing in cages for farming, re-exports and transshipments of Eastern Atlantic and Mediterranean bluefin tuna species that are not accompanied by accurate, complete, and validated documentation required by this Chapter shall be prohibited.

2. Internal trade, imports, landings, placing in cages for farming, processing, exports, re-exports and the transshipment of Eastern Atlantic and Mediterranean bluefin tuna (*thunnus thynnus*) caught by fishing vessels whose Flag State either does not have a quota, catch limit or allocation of fishing effort for Eastern Atlantic and Mediterranean bluefin tuna, under the

terms of ICCAT management and conservation measures, or when the Flag State fishing possibilities are exhausted, shall be prohibited

3. Internal trade, imports, landings, processing, exports from farms that do not comply with ICCAT *Recommendation 2006 [07]* on bluefin Tuna Farming shall be prohibited.

Article 80y
Conversion factors

The conversion factors adopted by the Standing Committee on Research and Statistics of ICCAT shall apply to calculate the equivalent round weight of the processed bluefin tuna.

Article 80z
ICCAT Scheme of Joint International Inspection

1. The ICCAT Scheme of Joint International Inspection adopted by ICCAT at its Fourth Regular Meeting (Madrid, November 1975) shall apply in the Community. The text of the scheme is reproduced in Part IV of Annex XVIa.

2. Member States whose fishing vessels are authorised to fish bluefin tuna in the Eastern Atlantic and Mediterranean Sea shall assign inspectors to carry out inspections at sea.

3. The Commission may assign Community inspectors to the Scheme.

4. The Commission shall coordinate the surveillance and inspection activities for the Community. It may draw up, in concert with the Member States concerned, joint inspection programmes for that purpose which will enable the Community to fulfil its obligation under the Scheme. The Member States whose vessels are engaged in fisheries on regulated resources shall adopt the necessary measures to facilitate the implementation of these programmes particularly as regards the human and material resources required and the periods and zones when these are to be deployed.

5. Member States shall inform the Commission by 1 April 2007 of the names of the inspectors and the inspection vessels they are intending to assign to the Scheme during the following year. Using this information the Commission shall draw up, in collaboration with the Member States, a forward plan for Community participation in the Scheme in 2007, which it shall send to the ICCAT Secretariat and the Member States.

- (2) Annex I D is amended in accordance with Annexe I to this Regulation.
- (3) The text in Annex II to this Regulation is inserted as Annex XVIa.

Article 2
Entry into force

This Regulation shall enter into force on the third day following that of its publication in *the Official Journal of the European Union*

This regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

ANNEX I

In Annex I D to Regulation (EC) No 41/2007 the entry concerning the bluefin tuna in zone Atlantic Ocean, east of longitude 45°W, and Mediterranean is replaced by the following:

Species:	Bluefin tuna <i>Thunnus thynnus</i>	Zone:	Atlantic Ocean, east of longitude 45° W, and Mediterranean BFT/AE045W
Cyprus	154,68		
Greece	287,23		
Spain	5568,21		
France	5493,65		
Italy	4336,31		
Malta	355,59		
Portugal	523,88		
All Member States	60 ⁽¹⁾		
EC	16.779,55		
TAC	29.500		

(1) Except Cyprus, Greece, Spain, France, Italy, Malta and Portugal, and only as by-catch.

ANNEX II

Annex XVIa is added:

ANNEX XVIa ICCAT Recovery Plan for Bluefin Tuna

Part I

Specific conditions applying to bait boat, trolling boat and pelagic trawler fisheries in the Eastern Atlantic

1. Each Member State shall limit the maximum number of its bait boat and trolling boats authorised to fish bluefin tuna to the number of the vessels participating in directed fishery for bluefin tuna in 2006.
2. Each Member State shall limit the maximum number of its pelagic trawler vessels authorised to fish bluefin tuna as by catch.
3. By 1 April 2007, Member States shall submit to ICCAT Secretariat, the number of fishing vessels established pursuant to paragraph 1 and 2.
4. a) Each Member State shall ensure that vessels to which a special fishing permit referred to in paragraph 1 and 2 has been issued are included in a list containing their name and Community fleet register number (CFR) as defined in Annex I to Commission Regulation

(EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register⁴. Member States shall issue the special fishing permit only when a vessel has been entered into the ICCAT record of vessels authorised to fish for bluefin tuna.

b) Each Member State shall send to the Commission the list referred to in paragraph a) and all subsequent amendments in a computer readable form.

c) Amendments to the list referred to in paragraph 4 a) shall be transmitted to the Commission at least five days prior to the date that the vessel newly inserted in that list enters Eastern Atlantic and Mediterranean Sea. The Commission shall promptly forward amendments to the ICCAT Secretariat.

5. Each Member State shall allocate no more than 10% of its quota for bluefin tuna among these authorised vessels, with up to a maximum of 200 tonnes of bluefin tuna weighing no less than 6,4 kg caught by bait boat vessels of an overall length of less than 17 m.

6. Each Member State may allocate no more than 2% of its quota for bluefin tuna among its coastal artisanal fishery for fresh fish.

7.a) It shall be prohibited to land and or tranship from vessels referred to in paragraph 1 and 2 of the present Annex any quantity of bluefin tuna fished in East Atlantic and Mediterranean Sea at any place other than ports designated by CPCs.

b). Member States shall designate a place used for landing or a place closed to the shore (designated ports) where landing or transhipment operations of bluefin tuna are permitted.

c). Member States shall transmit to the Commission no later than 1 April 2007 a list of designated ports. The Commission shall send this information to the ICCAT Executive Secretariat before 15 April 2007. Any subsequent changes to the list shall be notified to the Commission for transmission to the ICCAT Executive Secretariat, at least 15 days before the change shall come into force.

8. By way of derogation from the provision of Article 7 of Regulation (EEC) No 2847/93, masters of the Community vessels referred to in paragraph 1 and 2 or their representative must notify the competent authority of the Member State in whose ports or landing facility they wish to use at least 4 hours before the estimated time of arrival at the port, of the following:

- a) estimated time of arrival,
- b) estimate of quantity of bluefin tuna retain on board,
- c) information on the zone where the catches were taken

9. Each Member State shall implement a catch reporting regime that insures effective monitoring of the utilisation of each vessel's quota.

⁴ OJ L 5, 9.1.2004, p. 25

10. Bluefin tuna catches may not be offered for retail sale to the final consumer, irrespective of the marketing method, unless appropriate marking or labelling indicates:

- (a) the species, fishing gear used,
- (b) the catch area and date.

11. Beginning 1 July 2007, Member States whose bait boats are authorised to fish for bluefin tuna in the East Atlantic shall institute tail tag requirements as follows:

- a) Tail tags must be affixed on each bluefin tuna immediately upon offloading.
- b) Each tail tag shall have a unique identification number and be included on bluefin tuna statistical documents and written on the outside of any package containing tuna.

Part II

Specification for logbooks:

Minimum specifications for logbooks

1. The logbook must be numbered by sheets.
2. The logbook must be filled every day (midnight) or before port arrival
3. The logbook must be completed in case of at sea inspections
4. One copy of the sheets must remain attached to the logbook
5. Logbooks must be kept on board to cover a period of one year operation.

Minimum standard information for logbooks:

1. Master name and address
2. Dates and ports of departure, Dates and ports of arrival
3. Vessel name, register number, ICCAT number and IMO number (if available). In case of joint fishing operations, vessel names, register numbers, ICCAT numbers and IMO numbers (if available) of all the vessels involved in the operation.
4. Fishing gear:
 - a) type FAO code
 - b) Dimension (length, mesh size, number of hooks...)
5. Operations at sea with one line (minimum) per day of trip, providing:
 - a) Activity (fishing, steaming...)
 - b) Position: Exact daily positions (in degree and minutes), recorded for each fishing operation or at noon when no fishing has been conducted during this day.
 - c) Record of catches:
6. Species identification:
 - a) by FAO code
 - b) round (RWT) weight in kg per day
7. Master signature
8. Observer signature (if applicable)
9. Means of weight measure: estimation, weighing on board.
10. The logbook is kept in equivalent live weight of fish and mentions the conversion factors used in the evaluation.

Minimum information in case of landing, transshipment/transfer:

1. Dates and port of landing /transshipment/transfer
2. Products
 - a) presentation
 - b) number of fish or boxes and quantity in kg
3. Signature of the Master or Vessel Agent

Part III

ICCAT TRANSFER/TRANSHIPMENT DECLARATION

Document N° ICCAT TRANSFER/TRANSHIPMENT DECLARATION

Tug/Carrier vessel	Fishing Vessel
Name of vessel and radio call sign:	Name of the vessel and radio call sign,
Flag:	Flag:
Flag State authorization No.	Flag State authorisation No.
National Register No.	National register No.
ICCAT Register No.	ICCAT Register No.
IMO No.	External identification:
	Fishing logbook sheet No.

Day Month Hour Year|2_|0_|_|_| F.V Master's name:Tug/Carrier Master's name: LOCATION OF
 TRANSHIPMENT

Departure |_|_| |_|_| |_|_| from |_____|

Return |_|_| |_|_| |_|_| to |_____| Signature: Signature:

Tranfer/Transh |_|_| |_|_| |_|_| |_____|

For transhipment, indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: |___| kilograms.

In case of transfer of live fish indicate number of unit and live weight

Port	ea	Species	Number of unit of fishes	Type of Product Live	Type of Product Whole	Type of Product Guttet	Type of Product Head off	Type of Product Filleted	Type of Product	further transfer / transhipments
	Lat. Long.									Date: Place/Position:
										Authorization CP No.
										Transfer vessel Master signature:
										Name of receiver vessel:
										Flag
										ICCAT Register No.
										IMO N°
										Master's signature
										Date: Place/Position:
										Authorisation CP No.
										Transfer vessel Master's signature:
										Name of receiver vessel:
										Flag
										ICCAT Register No.
										IMO No.
										Master's signature

ICCAT Observer signature (if applicable):

Obligations in case of transfer /transhipment:

1. The original of the transfer/transhipment declaration must be provided to the recipient vessel (tug/processing/transport)
2. The copy of the transfer/transhipment declaration must be kept by the correspondent catching fishing vessel
3. Further transfers or transshipping operations shall be authorised by the relevant CP which authorised the vessel to operate

4. The original of the transfer/ transhipment declaration has to be kept by the recipient vessel which holds the fish, up to the farm or the landing place
5. The transfer or transshipping operation shall be recorded in the log book of any vessel involved in the operation

PART IV

ICCAT SCHEME OF JOINT INTERNATIONAL INSPECTION

The Commission agreed at its Fourth Regular Meeting (Madrid, November 1975) that:

Pursuant to paragraph 3 of Article IX of the Convention, the Commission recommends the establishment of the following arrangements for international control outside the waters under national jurisdiction for the purpose of ensuring the application of the Convention and the measures in force there under:

1. Control shall be carried out by inspectors of the fishery control services of Contracting Governments. The names of the inspectors appointed for that purpose by their respective governments shall be notified to the Commission.
2. Ships carrying inspectors shall fly a special flag or pennant approved by the Commission to indicate that the inspector is carrying out international inspection duties. The names of the ships so used for the time being, which may be either special inspection vessels or fishing vessels, shall be notified to the Commission, as soon as may be practical.
3. Each inspector shall carry a document of identify supplied by the authorities of the flag state in a form approved by the Commission and given him on appointment stating that he has authority to act under arrangements approved by the Commission.
4. Subject to the arrangements agreed under paragraph (9), a vessel employed for the time being in fishing for tuna or tuna-like fishes in the Convention Area outside the waters under national jurisdiction shall stop when given the appropriate signal in the International Code of Signals by a ship carrying an inspector unless actually carrying out fishing operations, in which case it shall stop immediately once it has finished such operations. The master⁵ of the vessel shall permit the inspector, who may be accompanied by a witness, to board it. The master shall enable the inspector to make such examination of catch or gear and any relevant documents as the inspector deems necessary to verify the observance of the Commission's recommendations in force in relation to the flag state of the vessel concerned and the inspector may ask for any explanations that he deems necessary.
5. On boarding the vessel an inspector shall produce the document described in (3) above. Inspections shall be made so that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish be avoided. An inspector shall limit his enquiries to the ascertainment of the fact in relation to the observance of the Commission's recommendations in force in relation to the flag state of the vessel concerned. In making his examination an inspector may ask the master for any assistance he may require. He shall draw up a report of his inspection in a form approved by the Commission. He shall sign the report in the presence of the master of the vessel who shall be entitled to add or have added to the report any observations which he may think suitable and must sign such observations. Copies of the report shall be given to the master of the vessel and to the inspector's government who shall transmit copies to the appropriate authorities of the flag state of the vessel and to the Commission. Where any infringement of the recommendations is

⁵ Master refers to the individual in charge of the vessel

discovered the inspector should, where possible, also inform the competent authorities of the flag state, as notified to the Commission, and any inspection ship of the flag state known to be in the vicinity.

6. Resistance to an inspector or failure to comply with his directions shall be treated by the flag state of the vessel in a manner similar to resistance to any inspector of that state or a failure to comply with his directions.

7. Inspector shall carry out their duties under these arrangements in accordance with the rules set out in this recommendation but they shall remain under the operational control of their national authorities and shall be responsible to them.

8. Contracting Governments shall consider and act on reports of foreign inspectors under these arrangements on a similar basis in accordance with their national legislation to the reports of national inspectors. The provisions of this paragraph shall not impose any obligation on a Contracting Government to give the report of a foreign inspector a higher evidential value than it would possess in the inspector's own country. Contracting Governments shall collaborate in order to facilitate judicial or other proceedings arising from a report of an inspector under these arrangements.

9. (i) Contracting Governments shall inform the Commission by the 1st of March each year of their provisional plans for participation in these arrangements in the following year and the Commission may make suggestions to Contracting Governments for the coordination of national operations in this field including the number of inspectors and ships carrying inspectors.

(ii) The arrangements set out in this recommendation and the plans for participation shall apply between Contracting Governments unless otherwise agreed between them; and such agreement shall be notified to the Commission:

Provided however, that implementation of the scheme shall be suspended between any two Contracting Governments if either of them has notified the Commission to that effect, pending completion of an agreement.

10. (i) The fishing gear shall be inspected in accordance with the regulations in force for the subarea in which the inspection takes place. The inspector will state the nature of this violation in this report.

(ii) Inspectors shall have the authority to inspect all fishing gear in use or that fishing gear on deck ready for use.

11. The inspector shall affix an identification mark approved by the Commission to any fishing gear inspected which appears to be in contravention of the Commission's recommendations in force in relation to the flag state of the vessel concerned and shall record this fact in his report.

12. The inspector may photograph the gear in such a way as to reveal those features which in his opinion are not in conformity with the regulation in force, in which case the subjects photographed should be listed in the report and copies of the photographs should be attached to the copy of the report to the flag state.

13. The inspector shall have authority, subject to any limitations imposed by the Commission, to examine the characteristics of catches, to establish whether the Commission's recommendations are being complied with. He shall report his findings to the authorities of the flag state of the inspected vessel as soon as possible. (Biennial Report 1974-75, Part II).

Remarks

It was agreed to leave in abeyance the date of entry into effect of the International Inspection Scheme until the Commission decides otherwise.

ICCAT Pennant:

