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## I

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

## REGULATIONS

## COUNCIL REGULATION (EC) No 302/2009

of 6 April 2009

**concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean, amending Regulation (EC) No 43/2009 and repealing Regulation (EC) No 1559/2007**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament <sup>(1)</sup>,

Whereas:

(1) Since 14 November 1997, the Community has been a Party to the International Convention for the Conservation of Atlantic Tunas <sup>(2)</sup> (hereinafter referred to as the Convention).

(2) At its 16th Special Meeting in November 2008, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 08-05 to establish a new recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean ending in 2022 and replacing the recovery plan adopted in 2006.

(3) In order to rebuild the stock, the new ICCAT recovery plan provides for a graduated reduction in the total allowable catch level from 2007 to 2011, restrictions on fishing within certain areas and time periods, a new minimum size for bluefin tuna, measures concerning sport and recreational fishing activities, farming and

fishing capacity measures as well as reinforced control measures and the implementation of the ICCAT scheme of joint international inspection to ensure the effectiveness of the recovery plan.

(4) It is therefore necessary to implement the new ICCAT recovery plan by means of a Regulation establishing a recovery plan as provided for in Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy <sup>(3)</sup>, which should enter into force before the beginning of the main fishing season.

(5) The ICCAT recovery plan of 2006 was incorporated in Community law by Council Regulation (EC) No 1559/2007 of 17 December 2007 establishing a multi-annual recovery plan for bluefin tuna in the Eastern Atlantic and Mediterranean <sup>(4)</sup>. The adoption by ICCAT of a new recovery plan for bluefin tuna requires the amendment of Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 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 <sup>(5)</sup>, repeal of Regulation (EC) No 1559/2007 and its replacement by this Regulation.

(6) Given the urgency of the matter, it is necessary to grant an exception to the six-week period mentioned in paragraph 1(3) of the Protocol on the role of national parliaments in the European Union annexed to the Treaty on the European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community,

<sup>(1)</sup> Opinion of the European Parliament of 12 March 2009 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 162, 18.6.1986, p. 33.

<sup>(3)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(4)</sup> OJ L 340, 22.12.2007, p. 8.

<sup>(5)</sup> OJ L 22, 26.1.2009, p. 1.

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### Subject matter, scope and objective

This Regulation lays down the general rules for the application by the Community of a multiannual recovery plan for bluefin tuna (*Thunnus thynnus*) recommended by the International Commission for the Conservation of the Atlantic Tunas (ICCAT).

This Regulation 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 with greater than 50 % probability.

#### Article 2

#### Definitions

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

- (a) 'CPCs' means Contracting Parties to the Convention 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 bluefin tuna resources, including catching vessels, fish processing vessels, support ships, tug and towing vessels, vessels engaged in transshipment and transport vessels equipped for the transportation of tuna products and auxiliary vessels, except container vessels;
- (c) 'catching vessel' means a vessel used for the purposes of the commercial capture of bluefin tuna resources;
- (d) 'auxiliary vessel' means any vessel used to transport dead bluefin tuna (not processed) from a cage to a designated port;
- (e) '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;
- (f) 'fishing actively' means, for any catching vessel, the fact that it targets bluefin tuna during a given fishing season;
- (g) 'joint fishing operation' means any operation between two or more catching vessels flying the flag of different CPCs or of different Member States or of the same Member State where the catch of one catching vessel is attributed to one or more other catching vessels in accordance with an allocation key;
- (h) 'transfer activities' means:
  - (i) any transfer of live bluefin tuna from the catching vessel's net or trap to the transport cage;
  - (ii) any transfer of live bluefin tuna from the transport cage to another transport cage;
  - (iii) any transfer of dead bluefin tuna from the catching vessel's net or transport cage to an auxiliary vessel;
  - (iv) any transfer from a bluefin tuna farm or a tuna trap to a processing vessel, transport vessel or to land;
  - (v) any transfer of a transport cage from a tug vessel to another tug vessel;
- (i) 'tuna trap' means fixed gear anchored to the bottom usually containing a guide net that leads fish into an enclosure;
- (j) 'caging' means the transfer of bluefin tuna from the transport cage to the fattening and farming cages;
- (k) 'fattening' means the caging of bluefin tuna for a short period (usually two to six months) aiming mostly at increasing the fat content of the fish;
- (l) 'farming' means the caging of bluefin tuna for a period longer than one year, aiming to increase the total biomass;
- (m) 'transshipment' means the unloading of all or any of the bluefin tuna on board a fishing vessel onto another fishing vessel;
- (n) 'sport fishery' means a non-commercial fishery whose participants adhere to a national sport organisation or are issued with a national sport licence;
- (o) '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;

(p) 'Task II' means Task II as defined by ICCAT in the 'Field manual for statistics and sampling Atlantic tunas and tuna-like fish' (Third edition, ICCAT, 1990).

#### Article 3

##### Length of vessels

All lengths of vessels referred to in this Regulation shall be understood as length overall.

#### CHAPTER II

##### FISHING OPPORTUNITIES

#### Article 4

##### Conditions associated to the fishing opportunities

1. Each Member State shall take the necessary measures to ensure that the fishing effort of its catching vessels and its traps are commensurate with the fishing opportunities on bluefin tuna available to that Member State in the eastern Atlantic and Mediterranean.

2. Each Member State shall draw up an annual fishing plan for the catching vessels and traps fishing bluefin tuna in the eastern Atlantic and Mediterranean.

3. The annual fishing plan shall identify in particular:

(a) the catching vessels over 24 m included in the list referred to in Article 14 and the individual quota allocated to them and the method used to allocate quota as well as the measure to ensure the respect of the individual quota;

(b) for the catching vessels less than 24 m and for traps, at least the quota allocated to producer organisations or groups of vessels fishing with similar gear.

4. No later than 31 January each year, the annual fishing plan shall be transmitted to the European Commission (hereinafter referred to the Commission). The Commission shall transmit the fishing plans to the ICCAT Secretariat by 1 March each year.

5. Any subsequent modification to the annual fishing plan or to the specific method to manage the quota allocated shall be transmitted to the Commission at least 13 days before the exercise of the activity corresponding to that modification. The Commission shall transmit such modification to the ICCAT Secretariat at least 10 days before the exercise of the activity corresponding to that modification.

6. The flag Member State shall take the action under this paragraph where a vessel flying its flag has:

(a) failed in its reporting requirement referred to in Article 20;

(b) committed an infringement referred to in Article 33.

The flag Member State shall ensure that a physical inspection takes place under its authority in its ports or by another person designated by the flag Member State when the vessel is not in one of its ports.

The flag Member State shall withdraw the fishing authorisation for bluefin tuna and may require the vessel to proceed immediately to a port designated by it when the individual quota is deemed to be exhausted.

7. No later than 15 September each year, Member States shall report to the Commission on the implementation of their annual fishing plans for that year. Those reports shall include:

(a) the list of catching vessels actually engaged in active fishing activities involving bluefin tuna in the eastern Atlantic and Mediterranean;

(b) the catches of each catching vessel; and

(c) the total number of days each catching vessel fished in the eastern Atlantic and Mediterranean.

The Commission shall transmit the reports to the ICCAT Secretariat by 15 October each year.

Given that the fishing seasons close for certain gears on 15 October, Member States may submit additional information on these fisheries at a later stage to the Commission.

8. 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 a CPC shall not be conducted without an authorisation by the Member State concerned, which shall inform the Commission, and by the ICCAT Commission.

9. By 1 March each year, Member States shall send to the Commission the information on any private trade arrangements between its nationals and a CPC.

10. The information referred to in paragraph 9 shall contain the following elements:

(a) the list of all the fishing vessels flying the flag of the Member State authorised to fish actively for bluefin tuna under private trade arrangements;

(b) the 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 register <sup>(1)</sup>;

(c) length of the private trade arrangements;

(d) the relevant Member State's assent to the private arrangement;

(e) the name of the CPC concerned.

11. The Commission shall send without delay the information referred to in paragraph 9 to the ICCAT Secretariat.

12. The Commission shall ensure that the percentage of other CPCs' quotas for bluefin tuna that may be used for chartering of Community fishing vessels in accordance with Article 8b of Council Regulation (EC) No 1936/2001 <sup>(2)</sup> shall not exceed 20 % of these CPCs' quotas in 2009.

13. Chartering of Community fishing vessels for bluefin tuna in the eastern Atlantic and Mediterranean shall be prohibited as from 2010.

14. Each Member State shall ensure that the number of its bluefin tuna fishing vessels chartered and the duration of the charter shall be commensurate with the quota allocated to the charter nation.

15. Each Member State shall allocate a specific quota for the purpose of recreational and sport fisheries and shall inform the Commission before the start of the fishing season referred to in Article 7(5).

### CHAPTER III

#### CAPACITY MEASURES

##### Article 5

##### Fishing capacity measures

1. Each Member State shall ensure that its fishing capacity is commensurate with its quota.

2. The number, and the total corresponding gross tonnage, of fishing vessels flying the flag of a Member State that may fish for, retain on board, tranship, transport, or land bluefin tuna shall be limited to the number, and the total corresponding gross tonnage, of fishing vessels flying the flag of that Member State that fished for, retained on board, transhipped, transported, or landed bluefin tuna during the period from 1 January 2007 to 1 July 2008. This limit shall apply by gear type for catching vessels and by vessel type for other fishing vessels.

3. For the purpose of paragraph 2, the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number and the total corresponding gross tonnage of the fishing vessels of each Member State that fished for, retained on board, transhipped, transported, or landed bluefin tuna during the period from 1 January 2007 to 1 July 2008. This limit shall be applied by gear type for catching vessels and by vessel type for other fishing vessels.

4. The number of traps of a Member State engaged in the eastern Atlantic and Mediterranean bluefin tuna fishery shall be limited to the number of traps authorised by that Member State before 1 July 2008.

5. For the purpose of paragraph 4, the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number of traps authorised by each Member State before 1 July 2008.

6. The freezing of fishing capacity referred to in paragraphs 2 and 4 may not apply to a Member State which demonstrates that it needs to develop its fishing capacity so as to fully use its quota.

7. Without prejudice to paragraph 6, the fishing capacity referred to in paragraphs 2 and 4 and Article 9 shall be reduced, so as to eliminate by 2010 for each Member State at least 25 % of the discrepancy between its fishing capacity and its fishing capacity commensurate with its quota in 2010.

To calculate the fishing capacity reduction, the estimated yearly catch rates per vessel and gear shall be taken into account.

This reduction requirement may not apply to a Member State which demonstrates that its fishing capacity is commensurate with its quota.

8. For the purpose of paragraph 7, the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number and total capacity in gross tonnage of fishing vessels of each Member State that may be authorised to fish for, retain on board, tranship, transport, or land bluefin tuna.

9. Each Member State shall establish a management plan of fishing capacity over 2010-2013. That plan shall be submitted to the Commission by 15 August 2009, and shall include the information referred to in paragraphs 2, 4, 6 and 7. The Commission shall submit the Community management plan of fishing capacity over 2010-2013 to ICCAT by 15 September 2009.

<sup>(1)</sup> OJ L 5, 9.1.2004, p. 25.

<sup>(2)</sup> OJ L 263, 3.10.2001, p. 1.

*Article 6***Farming and fattening capacity measures**

1. The tuna farming and fattening capacity of a Member State shall be limited to the tuna farming and fattening capacity of the farms of that Member State that were registered in the ICCAT record of farming facilities or authorised and declared to ICCAT as of 1 July 2008.

2. The maximum input of wild caught bluefin tuna into the farms of a Member State shall be limited for 2010 to the level of the input quantities registered with ICCAT by the farms of that Member State in 2005, 2006, 2007 or 2008.

3. Within the maximum input quantity of wild caught bluefin tuna referred to in paragraph 2, each Member State shall allocate inputs to its farms.

4. For the purpose of paragraphs 1 and 2, the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the tuna farming and fattening capacity for each Member State and the maximum input of wild caught bluefin tuna that each Member State may allocate to its farms.

5. Each farming or fattening Member State shall establish a management plan of farming and fattening capacity over 2010-2013. That plan shall be submitted to the Commission by 15 August 2009 and shall include the information referred to in paragraphs 1 to 3. The Commission shall submit the Community management plan of farming and fattening capacity over 2010-2013 to ICCAT by 15 September 2009.

## CHAPTER IV

**TECHNICAL MEASURES***Article 7***Closed fishing season**

1. Bluefin tuna fishing shall be prohibited in the eastern Atlantic and Mediterranean by large-scale pelagic longline catching vessels over 24 m during the period from 1 June to 31 December with the exception of the area delimited by west of 10° W and north of 42° N, where such fishing shall be prohibited from 1 February to 31 July.

2. Purse seine fishing for bluefin tuna shall be prohibited in the eastern Atlantic and Mediterranean during the period from 15 June to 15 April.

3. Bluefin tuna fishing by baitboats and trolling boats shall be prohibited in the eastern Atlantic and Mediterranean during the period from 15 October to 15 June.

4. Bluefin tuna fishing by pelagic trawlers shall be prohibited in the eastern Atlantic during the period from 15 October to 15 June.

5. Bluefin tuna recreational and sport fishing shall be prohibited in the eastern Atlantic and Mediterranean from 15 October to 15 June.

6. By way of derogation from paragraph 2, if a Member State can demonstrate that, due to winds reaching force 5 or more on the Beaufort scale, certain of its purse seine catching vessels fishing for bluefin tuna in the eastern Atlantic and Mediterranean were unable to utilise their normal fishing days, that Member State may carry over a maximum of 5 days lost until 20 June.

The Member State concerned shall notify by 14 June to the Commission the additional fishing days granted. Such notification shall be accompanied by the following information:

- (i) a report containing the details of the cessation of the fishing activities in question, including appropriate supporting meteorological information;
- (ii) the name of the catching vessel;
- (iii) the Community fleet register number (CFR) as defined in Annex I to Regulation (EC) No 26/2004.

The Commission shall forward without delay this information to ICCAT.

*Article 8***Use of planes**

The use of aircraft or helicopters for searching for bluefin tuna shall be prohibited.

*Article 9***Minimum size and specific measures for certain fisheries**

1. The minimum size for bluefin tuna in the eastern Atlantic and in the Mediterranean shall be 30 kg or 115 cm.

2. By way of derogation from paragraph 1 and without prejudice to Article 11, a minimum size for bluefin tuna of 8 kg or 75 cm shall apply to the following situations:

- (a) bluefin tuna caught in the eastern Atlantic by baitboats and trolling boats;



(b) bluefin tuna caught in the Adriatic for farming purposes;

(c) bluefin tuna caught in the Mediterranean by the coastal artisanal fishery for fresh fish by baitboats, longliners and handliners.

3. For the purpose of paragraph 2(a), the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the maximum number of baitboats and trolling boats authorised to fish actively bluefin tuna in the eastern Atlantic. By way of derogation from Article 5(2), the number of baitboats and trolling boats is set at the number of Community catching vessels participating in the directed fishery for bluefin tuna in 2006.

4. For the purpose of paragraph 2(b), the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the maximum number of catching vessels authorised to fish actively bluefin tuna in the Adriatic Sea for farming purposes. By way of derogation from Article 5(2), the number of catching vessels is set at the number of Community catching vessels participating in the directed fishery for bluefin tuna in 2008.

5. For the purpose of paragraph 2(c), the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the maximum number of baitboats, longliners and handliners authorised to fish actively bluefin tuna in the Mediterranean. By way of derogation from Article 5(2), the number of catching vessels is set at the number of Community catching vessels participating in the directed fishery for bluefin tuna in 2008.

6. The Commission shall submit the number of catching vessels referred to in paragraphs 3, 4 and 5 to the ICCAT Secretariat by 30 January each year.

7. For the purpose of paragraph 2(a), (b) and (c), the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall distribute among the Member States the number of catching vessels determined in accordance with paragraphs 3, 4 and 5.

8. For the purpose of paragraph 2(a), no more than 7 % of the Community quota for bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm shall be allocated among the authorised catching vessels referred to in paragraph 3, with up to a maximum of 100 tonnes of bluefin tuna weighing no less than 6,4 kg or 70 cm caught by baitboats of less than 17 m by way of derogation from paragraph 2. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall decide on the allocation of the Community quota among Member States.

9. For the purpose of paragraph 2(b), the Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall decide on the maximum allocation of the Community quota among Member States.

10. For the purpose of paragraph 2(c), no more than 2 % of the Community quota for bluefin tuna between 8 kg or 75 cm and 30 kg or 115 cm shall be allocated among the authorised catching vessels referred to in paragraph 5. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall decide on the allocation of the Community quota among Member States.

11. The additional specific conditions for bluefin tuna caught in the eastern Atlantic by baitboats and trolling boats, for bluefin tuna caught in the Adriatic for farming purposes and for bluefin tuna caught in the Mediterranean by the coastal artisanal fishery for fresh fish by baitboats, longliners and handliners are set out in Annex I.

12. Incidental catches of maximum 5 % of bluefin tuna between 10 kg or 80 cm and 30 kg shall be authorised for all catching vessels fishing actively for bluefin tuna.

13. The percentage referred to in paragraph 12 shall be calculated either on the basis of the total incidental catches in number of fish per landing of the total catches of these catching vessels, or on basis of its weight equivalence in percentage.

14. Incidental catches shall be deducted from the quota of the flag Member State. The discard of dead fish from the incidental catch referred to in paragraph 12 shall be prohibited and shall be deducted from the quota of the flag Member State.

15. Incidental catches of bluefin tuna shall be subject to Articles 17, 18, 21 and 23.

#### Article 10

##### Sampling plan for live bluefin tuna

1. 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 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 for sampling carried out each year shall be notified to the Commission by 31 May of the following year.

#### Article 11

##### By-catch

1. Community catching vessels not fishing actively for bluefin tuna are not authorised to retain on board bluefin tuna exceeding 5 % of the total catch on board by weight or/and number of pieces.

2. By-catch shall be deducted from the quota of the flag Member State. The discard of dead fish from the by-catch referred to in paragraph 1 shall be prohibited while the bluefin tuna fishery is open and shall be deducted from the quota of the flag Member State.

3. By-catch of bluefin tuna shall be subject to Articles 17, 18, 21 and 23 and 34.

#### Article 12

##### Recreational fisheries

1. Each Member State shall issue fishing authorisations to vessels for the purpose of recreational fishing.

2. In the framework of recreational fisheries it shall be prohibited to catch, retain on board, tranship and land more than one individual bluefin tuna in each sea trip.

3. The marketing of bluefin tuna caught in recreational fishing shall be prohibited except for charitable purposes.

4. Each Member State shall record catch data from recreational fishing and communicate the data for the preceding year to the Commission by 30 June each year. The Commission shall forward that information to the Standing Committee on Research and Statistics of ICCAT.

5. 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 13

##### Sport fisheries

1. Each Member State shall regulate sport fisheries, notably by issuing fishing authorisations to vessels for the purpose of sport fishing.

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 fisheries and communicate the data for the preceding year to the Commission by 30 June each year. The Commission shall forward that information 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.

#### CHAPTER V

##### CONTROL MEASURES

#### Article 14

##### Records of vessels

1. Each Member State shall, at least 45 days before beginning of the fishing seasons referred to in Article 7, send the Commission electronically in accordance with the format set in the *Guidelines for submitting data and information required by ICCAT*:

(a) a list of all catching vessels flying its flag authorised to fish actively for bluefin tuna in the eastern Atlantic and Mediterranean by issue of a special fishing authorisation;

(b) a list of all other fishing vessels (catching vessels excluded) flying its flag authorised to operate for bluefin tuna in the eastern Atlantic and Mediterranean.

During a calendar year, a fishing vessel shall be included in only one of the lists referred to in this paragraph.

2. Any subsequent changes to the lists referred to in paragraph 1 during a calendar year shall not be accepted unless a notified fishing vessel is prevented from participation due to legitimate operational reasons or *force majeure*. In such circumstances the Member State concerned shall immediately inform the Commission, providing:

(a) full details of the intended replacement fishing vessel(s) referred to in paragraph 1;

(b) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.

3. The Commission shall send the information referred to in paragraphs 1 and 2 to the ICCAT Secretariat so that these vessels can be entered in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of all other fishing vessels (catching vessels excluded) authorised to operate for bluefin tuna.

4. Without prejudice to Article 11, Community fishing vessels not entered in the ICCAT records shall not fish for, retain on board, tranship, transport, transfer, process or land bluefin tuna in the eastern Atlantic and Mediterranean.

5. Article 8a(2), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply *mutatis mutandis*.

#### Article 15

##### Record of tuna traps authorised to fish for bluefin tuna

1. By 15 February each year, each Member State shall send the Commission electronically a list of its tuna traps authorised, by issue of a special fishing authorisation, to fish for bluefin tuna in the eastern Atlantic and Mediterranean. The list shall include the name of the traps and the register number.

2. The Commission shall send the list to the ICCAT Secretariat so that those tuna traps can be entered on the ICCAT record of tuna traps authorised to fish for bluefin tuna.

3. Community tuna traps that are not entered into the ICCAT record may not fish for, retain, transfer or land bluefin tuna in the eastern Atlantic and Mediterranean.

4. Article 8a(2), (4), (6), (7) and (8) of Regulation (EC) No 1936/2001 shall apply *mutatis mutandis*.

#### Article 16

##### Information on fishing activities

1. By 15 February each year, each Member State shall notify to the Commission the list of the catching vessels included in the ICCAT record referred to in Article 14 that have fished for bluefin tuna in the eastern Atlantic and Mediterranean in the preceding fishing year.

2. Each Member State shall notify to the Commission of any information concerning vessels not covered in paragraph 1 but known or presumed to have fished for bluefin tuna in the eastern Atlantic and Mediterranean.

3. The Commission shall transmit to the ICCAT Secretariat the information referred to in paragraph 1 by 1 March each year and the information referred to in paragraph 2.

#### Article 17

##### Designated ports

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

For a port to be determined as designated port, the port Member State shall specify permitted landing and transhipping times and places. The port Member State shall ensure full inspection coverage during all landing and transhipping times and at all landing and transhipping places.

2. Member States shall transmit to the Commission, by no later than 15 February each year a list of designated ports. The Commission shall send this information to the ICCAT Secretariat before 1 March each year.

3. It shall be prohibited to land or tranship from fishing vessels any quantity of bluefin tuna fished in the eastern Atlantic and Mediterranean at any place other than ports designated by CPCs and by Member States in accordance with paragraphs 1 and 2.

#### Article 18

##### Recording requirements

1. In addition to complying with Articles 6 and 8 of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy<sup>(1)</sup>, the master of a Community catching vessel referred to in Article 14 of this Regulation shall enter in the logbook, if applicable, the information listed in Annex II.

2. The master of a Community catching vessel involved in a joint fishing operation shall record the following additional information in his logbook:

(a) as regards the catching vessel transferring the fish into cages:

(i) its name and international radio call sign;

(ii) the date and the time of the catch and of the transfer;

(iii) the location of the catch and of the transfer (longitude/latitude);

(iv) amount of catches taken on board, and amount of catches transferred into cages;

<sup>(1)</sup> OJ L 261, 20.10.1993, p. 1.

- (v) amount of catches counted against its individual quota;
  - (vi) the name of the tug boat and its ICCAT number;
- (b) as regards the other catching vessels not involved in the transfer of the fish:
- (i) their names and international radio call signs;
  - (ii) the date and the time of the catch and of the transfer;
  - (iii) the location of the catch and of the transfer (longitude/latitude);
  - (iv) that no catches have been taken on board or transferred into cages;
  - (v) the amount of catches counted against their individual quotas;
  - (vi) the name and the ICCAT number of the catching vessel referred to in (a);
  - (vii) the name of the tug boat and its ICCAT number.

#### Article 19

##### Joint fishing operations

1. Any joint fishing operations for bluefin tuna shall only be authorised with the consent of the flag State(s) concerned. To be authorised, each fishing vessel shall be equipped to fish bluefin tuna and have an individual quota.
2. At the moment of the application for the authorisation, each Member State shall take the necessary measures to obtain from its fishing vessels participating in the joint fishing operation the following information:
- (a) the duration;
  - (b) the identity of the operators involved;
  - (c) the individual vessels' quotas;
  - (d) the allocation key between the fishing vessels for the catches involved; and
  - (e) the information on the fattening or farming farms of destination.

3. Each Member State shall, at least 15 days before the start of the operation, transmit the information referred to in paragraph 2 to the Commission in accordance with the format set out in Annex V. The Commission shall promptly forward that information to the ICCAT Secretariat and to the flag State of other fishing vessels participating in the joint fishing operation at least 10 days before the start of the operation.

#### Article 20

##### Catch reports

1. The master of a purse seine catching vessel or of another catching vessel over 24 m fishing actively for bluefin tuna shall send, by electronic or other means, to the competent authorities of his flag Member State a daily catch report with, as a minimum, information on the ICCAT register number, the vessel name, the beginning and end of the period, the catch amount (including weight and number of pieces), including zero catch returns, the date and the location (latitude and longitude) of the catches, in accordance with the format set out in Annex IV or in an equivalent format.

2. The master of a catching vessel not referred to in paragraph 1 shall send to the competent authorities of his flag Member State a weekly catch report with, as a minimum, information on the ICCAT register number, the vessel name, the beginning and end of the period, the catch amount (including weight and number of pieces), including zero catch returns, the date and the location (latitude and longitude) of the catches, in accordance with the format set out in Annex IV or in an equivalent format. The catch report shall be transmitted at the latest by Monday noon with the catches taken during the preceding week ending Sunday midnight GMT. This report shall include information on the number of days at sea in the eastern Atlantic and Mediterranean since the beginning of the fishing or since the last weekly report.

3. Each Member State shall, upon receipt of the catch reports referred to in paragraphs 1 and 2, promptly forward them in computer-readable form to the Commission and shall ensure to provide promptly to the Commission weekly catch reports in computer-readable form for all catching vessels in accordance with the format set out in Annex IV. The Commission shall forward that information on a weekly basis to the ICCAT Secretariat in accordance with the format set out in Annex IV.

4. Member States shall inform the Commission, before the 15th day of each month, of the quantities of bluefin tuna caught in the eastern Atlantic and Mediterranean which have been landed, transhipped, trapped or caged by the fishing vessels flying their flag during the preceding month. The Commission shall promptly forward that information to the ICCAT Secretariat.

*Article 21***Landings**

1. By way of derogation from Article 7 of Regulation (EEC) No 2847/93, the master of a Community fishing vessel referred to in Article 14 of this Regulation or his representative shall, at least four hours before the estimated time of arrival at the port, notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use, of 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.
2. Authorities of the port Member State shall keep a record of all prior notices for the current year.
3. The authorities of the port Member State shall send a record of the landing to the authorities of the flag State of the fishing vessel, within 48 hours after the landing has ended.

4. After each trip and within 48 hours of landing, the masters of Community catching vessels shall submit a landing declaration to the competent authorities of the Member State or of the CPC where the landing takes place and to its flag Member State. The master of the authorised catching vessel shall be responsible for the accuracy of the declaration, which shall indicate, as a minimum, the quantities of bluefin tuna landed and the area where they were caught. All landed catches shall be weighed and not estimated.

*Article 22***Transfer operations**

1. Before any transfer operation into towed cages, the master of a catching vessel shall send to the competent authorities of his flag Member State before the transfer, a prior transfer notification indicating:

- (a) the name of the catching vessel and ICCAT number record;
- (b) the estimated time of transfer;
- (c) the estimate of quantity of bluefin tuna to be transferred;
- (d) information on the position (latitude/longitude) where the transfer will take place;
- (e) the name of the receiving tug vessel, number of cages towed and ICCAT number record.

2. The transfer operation shall not begin without the prior authorisation of the catching vessel flag State. The flag Member State shall inform the master of the catching vessel that the transfer is not authorised and to proceed to the release of the fish into the sea if it considers, on receipt of the prior transfer notification, that:

- (a) the catching 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 consumption of the quota that may be applicable;
- (c) the catching vessel declared to have caught the fish is not authorised to fish for bluefin tuna; or
- (d) the tug vessel declared to receive the transfer of fish is not registered in the ICCAT record of all other fishing vessels referred to in Article 14 or is not equipped with a Vessel Monitoring System (VMS).

3. The master of a catching vessel shall complete and transmit to the competent authorities of his flag Member State, at the end of the transfer operation to the tug vessel, the ICCAT transfer declaration, in accordance with the format set out in Annex III.

4. The transfer declaration shall accompany the transfer of fish during transport to the farm or a designated port.

5. The authorisation for transfer by the flag State does not prejudice the authorisation of the caging operation as referred to in Article 24.

6. The master of the catching vessel that transfers bluefin tuna shall ensure that the transfer activities be monitored by video camera in the water.

7. The ICCAT regional observer on board the catching vessel, as referred to in the ICCAT Regional observer programme set out in Annex VII, shall record and report upon the transfer activities carried out, verify the position of the catching vessel when engaged in the transfer operation, observe and estimate catches transferred and verify entries made in the prior transfer notification as referred to in paragraph 2 and in the ICCAT transfer declaration as referred to in paragraph 3.

The ICCAT regional observer shall countersign the prior transfer notification and the ICCAT transfer declaration. He shall verify that the ICCAT transfer declaration is properly completed and transmitted to the master of the tug vessel.

8. The tuna trap operator shall complete and send to the competent authorities of its Member State the ICCAT transfer declaration at the end of the transfer operation to the fishing vessel, in accordance with the format set out in Annex III.

#### Article 23

##### Transshipment

1. By way of derogation from Article 11 of Regulation (EEC) No 2847/93, transshipment at sea of bluefin tuna in the eastern Atlantic and Mediterranean shall be prohibited.

2. Prior to entry into any port, the master or the representative of the receiving fishing vessel shall, at least 48 hours before the estimated time of arrival, provide the competent authorities of the State whose port he wants to use with the following:

- (a) estimated date, time and port of arrival;
- (b) estimated quantity of bluefin tuna retained on board, and information on the geographic area where it was taken;
- (c) the name of the transshipping fishing vessel and its number in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate in the eastern Atlantic and Mediterranean;
- (d) the name of the receiving fishing vessel, its number in the ICCAT record of catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate in the eastern Atlantic and Mediterranean;
- (e) the tonnage and the geographic area of the catch of bluefin tuna to be transhipped.

3. Fishing vessels shall not be allowed to tranship unless they have obtained prior authorisation from their flag State.

4. The master of the transshipping fishing vessel shall, before the transshipment starts, inform its flag State of the following:

- (a) the quantities of bluefin tuna to be transhipped;
- (b) the date and port of the transshipment;
- (c) the name, registration number and flag of the receiving fishing vessel and its number in the ICCAT record of

catching vessels authorised to fish actively for bluefin tuna or in the ICCAT record of other fishing vessels authorised to operate for bluefin tuna;

- (d) the geographical area of the catch of bluefin tuna.

5. The competent authority of the Member State in which port the transshipment takes place shall:

- (a) inspect the receiving fishing vessel on arrival and check the cargo and documentation related to the transshipment operation;
- (b) send a record of the transshipment to the flag State authority of the transshipping fishing vessel, within 48 hours after the transshipment has ended.

6. The masters of Community fishing vessels shall complete and transmit the ICCAT transshipment declaration to the competent authorities of the Member State whose flag the fishing vessels are flying. The declaration shall be transmitted no later than 48 hours after the date of transshipment in port in accordance with the format set out in Annex III.

#### Article 24

##### Caging operations

1. The Member State under whose jurisdiction the fattening or farming 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 CPC whose flag vessels have fished the tuna and to the Commission. The Commission shall promptly forward that information to the ICCAT Secretariat. This report shall contain the information included in the caging declaration as set out in the ICCAT Recommendation 06-07 on bluefin tuna farming.

2. When the fattening or farming farms are located on the high seas, paragraph 1 shall apply, *mutatis mutandis*, to Member States where the natural or legal persons responsible for fattening or farming farms are established.

3. Before any caging operation, the flag Member State or the flag CPC of the catching vessel shall be informed by the competent authority of the fattening or farming farm Member State of the transfer into cage of quantities caught by catching vessels flying its flag.



The flag Member State of the catching vessel shall inform the competent authority of the fattening or farming farm Member State or CPC to proceed to the seizure of the catches and the release of the fish into the sea if, upon receipt of that information, it considers that:

- (a) the catching vessel declared to have caught the fish had insufficient individual 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; or
- (c) the catching vessel declared to have caught the fish is not authorised to fish for bluefin tuna.

4. The caging operation shall not begin without the prior authorisation of the catching vessel flag Member State or flag CPC.

5. The Member State under whose jurisdiction the farm for bluefin tuna is located shall take the necessary measures to prohibit placing in cages for farming or fattening bluefin tuna that are not accompanied by accurate, complete and validated documentation required by ICCAT.

6. The Member State under whose jurisdiction the farm is located shall ensure that caging activities shall be monitored by video camera in the water. This requirement shall not apply where the cages are directly fixed to the mooring system.

#### Article 25

##### Vessel Monitoring System

1. Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems<sup>(1)</sup> shall apply to fishing vessels as referred to in Article 2(b) of this Regulation. In addition, Member States shall ensure that all tug and towing vessels flying their flag, irrespective of their length, are equipped with and run an operational satellite tracking and monitoring device in accordance with Articles 3 to 16 of Regulation (EC) No 2244/2003.

2. Member States shall ensure that their Fisheries Monitoring Centres forward to the Commission and a body designated by it, in real time and using the format 'https data feed', the VMS messages received from the fishing vessels flying their flag. The Commission shall send electronically these messages to the ICCAT Secretariat.

<sup>(1)</sup> OJ L 333, 20.12.2003, p. 17.

3. Member States shall ensure that:

- (a) messages from the fishing vessels flying their flag are forwarded to the Commission at least every two hours when they operate in the eastern Atlantic and Mediterranean;
- (b) in the event of technical malfunction, messages from the fishing vessels flying their flag are forwarded to the Commission within 24 hours of receipt by their Fisheries Monitoring Centres;
- (c) messages forwarded to the Commission are sequentially numbered (with a unique identifier) in order to avoid duplication;
- (d) messages forwarded to the Commission are in accordance with the data exchange format set out in Annex VIII.

4. Member States shall take the necessary measures to ensure that all messages made available to their inspection vessels are treated in a confidential manner and are limited to inspection at sea operations.

#### Article 26

##### Recording and reporting of trap activities

1. Catches by trap shall be recorded after the end of every fishing operation in tuna traps and shall be transmitted by electronic means or other means within 48 hours of the end of every fishing operation to the competent authority of the Member State where the trap is located.

2. Each Member State shall, upon receipt, forward the catch record by electronic means to the Commission. The Commission shall promptly forward the information to the ICCAT Secretariat.

#### Article 27

##### Control in port or in farm

1. Member States shall take the necessary measures to ensure that all catching vessels referred to in the ICCAT record of vessels authorised to fish actively for bluefin tuna entering a designated port to land and/or tranship bluefin tuna caught in the eastern Atlantic and Mediterranean are submitted to a control in port.

2. Member States shall take the necessary measures to control each caging operation in the fattening or farming farms falling within their jurisdiction.



3. When the fattening or farming farms are located on the high seas, paragraph 2 shall apply, *mutatis mutandis*, to Member States where the natural or legal persons responsible for the fattening or farming farm are established.

#### Article 28

##### Cross-check

1. Member States shall verify, including by using inspection reports, observer reports and VMS data, the submission of logbooks and relevant information recorded in the logbooks of their fishing vessels in the transfer/transshipment document and in the bluefin tuna catch documents.

2. The Member States shall carry out cross-checks on all landings, all transshipments or caging between the quantities by species recorded in the fishing vessels logbook or quantities by species recorded in the transshipment declaration and the quantities recorded in the landing declaration or caging declaration, and any other relevant document, such as an invoice and/or sales notes.

#### Article 29

##### 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) as modified by ICCAT at its 16th Special Meeting and set out in Annex VI to this Regulation shall apply in the Community.

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

3. The Commission or a body designated by it may assign Community inspectors to the Scheme.

4. The Commission or a body designated by it 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 fishing vessels are engaged in the fishery of bluefin tuna shall adopt the necessary measures to facilitate the implementation of those programmes particularly as regards the human and material

resources required and the periods and geographical areas when those resources are to be deployed.

5. Member States shall inform the Commission by 1 April of each year 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 each year, which it shall send to the ICCAT Secretariat and the Member States.

#### Article 30

##### National observer programme

1. Each Member State shall ensure observer coverage on its catching vessels over 15 m fishing actively for bluefin tuna for at least:

- (a) 20 % of its active purse seine catching vessels between 15 m and 24 m;
- (b) 20 % of its active pelagic trawlers;
- (c) 20 % of its active longline catching vessels;
- (d) 20 % of its active baitboats;
- (e) 100 % during the harvesting process for tuna traps.

2. Pending the actual implementation by ICCAT of the Regional observer programme referred to in Article 31, each Member State shall ensure a national observer presence on:

- (a) all active purse seine catching vessels over 24 m;
- (b) all purse-seine vessels involved in joint fishing operations, irrespective of the length of the vessels. The national observer shall be present during the fishing operation.

3. The observer tasks shall be, in particular, to:

- (a) monitor a catching vessel's compliance with this Regulation;
- (b) record and report upon the fishing activity which shall include, *inter alia*, the following:
  - (i) amount of catch (including by-catch), that also includes species disposition, such as retained on board or discarded dead or alive;
  - (ii) area of catch by latitude and longitude;

(iii) measure of effort (e.g. number of sets, number of hooks), as defined in the ICCAT Field Manual for different gears;

(iv) date of catch;

(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 ICCAT, based on the instructions from the Standing Committee on Research and Statistics of ICCAT.

4. In implementing this observer requirement, Member States shall:

(a) ensure representative temporal and spatial coverage to ensure that the Commission receives adequate and appropriate data and information on catch, effort, and other scientific and management aspects, taking into account characteristics of the fleets and fisheries;

(b) ensure robust data collection protocols;

(c) ensure observers are properly trained and approved before deployment;

(d) ensure, to the extent practicable, minimal disruption to the operations of vessels fishing in the Convention Area.

5. Pending the actual implementation by ICCAT of the Regional observer programme referred to in Article 31, each Member State within whose jurisdiction the fattening or farming farm for bluefin tuna is located shall ensure an observer presence during all caging operations and all harvesting of fish from the farm.

#### Article 31

##### ICCAT Regional observer programme

1. Each Member State shall ensure an ICCAT observer presence on:

(a) all purse-seine vessels over 24 m during the entire fishing season;

(b) all purse-seine vessels involved in joint fishing operations, irrespective of the length of the vessels. The ICCAT observer shall be present during the fishing operation.

Purse-seine vessels referred to in (a) and (b) without an ICCAT regional observer shall not be authorised to fish or to operate in the bluefin tuna fishery.

2. Each Member State within whose jurisdiction the fattening or farming farm for bluefin tuna is located shall ensure an ICCAT observer presence during all caging operations and all harvesting of fish from the farm.

The ICCAT observer tasks shall be, in particular, to:

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

(b) validate the caging report referred to in Article 24;

(c) carry out such scientific work, for example collecting samples, as required by ICCAT, based on the instructions from the Standing Committee on Research and Statistics of ICCAT;

(d) ICCAT observers shall be allowed access to the vessel and farm personnel and to the gear, cages and equipment;

moreover:

(e) upon request, ICCAT observers shall also be allowed access to the following equipment, if present on the vessels to which they are assigned, in order to facilitate the carrying out of their duties set forth in paragraph 4 of Annex VII:

(i) satellite navigation equipment;

(ii) radar display viewing screens when in use;

(iii) electronic means of communication;

(f) ICCAT observers shall be provided with accommodation, including lodging, food and adequate sanitary facilities, equal to those of officers;

(g) ICCAT observers shall be provided with adequate space on the bridge or pilot house for clerical work, as well as space on deck adequate for carrying out observer duties; and

(h) The flag Member States shall ensure that masters, crew, farm and vessel owners do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an ICCAT observer in the performance of his duties.

3. All costs arising from the operation of ICCAT observers shall be borne by the Member States. Member States shall charge those costs, to the farm operators and purse seiner's owners.

4. The ICCAT Regional observer programme as set out in Annex VII shall apply in the Community.

#### Article 32

##### Access to video records

Each Member State shall ensure that the video records of its fishing vessels and of its farms, including video records of transfer and caging operations, are made available to the ICCAT inspectors and observers.

Each Member State under whose jurisdiction the farm for bluefin tuna is located shall ensure that the video records of its fishing vessels and of its farms, including video records of transfer and caging operations, are made available to Community inspectors and observers.

#### Article 33

##### Enforcement

1. Member States shall take enforcement measures with respect to a fishing vessel flying their flag, where it has been established, in accordance with their law that the vessel does not comply with Articles 4, 7, 8, 9, 17, 18, 19, 20, 21 and 23. The measures may include, in particular, depending on the gravity of the offence and in accordance with their 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 within whose jurisdiction the bluefin tuna farm is located shall take enforcement measures with

respect to that farm, where it has been established, in accordance with its law that the farm does not comply with Articles 24 and 31(2) of this Regulation and Article 4a, 4b and 4c of Regulation (EC) No 1936/2001. The measures may include in particular depending on the gravity of the offence and in accordance with the national law:

- (a) fines;
- (b) suspension or withdrawal from the fattening farms record;
- (c) prohibition of caging or marketing quantities of bluefin tuna.

#### Article 34

##### Market measures

1. Community trade, landing, imports, exports, placing in cages for fattening or farming, re-exports and transshipments of eastern Atlantic and Mediterranean bluefin tuna that are not accompanied by accurate, complete and validated documentation required by this Regulation and by ICCAT Recommendation 08-12 on a bluefin tuna catch documentation programme shall be prohibited.

2. Community trade, imports, landings, placing in cages for fattening or farming, processing, exports, re-exports and the transshipment of eastern Atlantic and Mediterranean bluefin tuna caught by fishing vessels whose flag State 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's fishing opportunities are exhausted, or whose individual quotas are exhausted, shall be prohibited. Based on the information received by the ICCAT Secretariat, the Commission shall inform all the Member States that a quota of a CPC is exhausted.

3. Community trade, imports, landings, processing, exports from fattening or farming farms that do not comply with ICCAT Recommendation 06-07 on bluefin tuna farming shall be prohibited.

#### Article 35

##### 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 36***Growth factors for fattened or farmed tuna**

Member States shall define growth factors to be applied to bluefin tuna fattened or farmed in their cages and notify the Commission of the factors and methodology used by 15 September 2009. The Commission shall forward that information to the ICCAT Secretariat and to the ICCAT Standing Committee on Research and Statistics.

*Article 37***Evaluation**

Each Member State shall submit each year by 15 September to the Commission a detailed report on its implementation of the Regulation. The Commission shall submit each year by 15 October to the ICCAT Secretariat a detailed report on the implementation of the ICCAT Recommendation 08-05.

*Article 38***Financing**

The multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002.

## CHAPTER VI

**FINAL PROVISIONS***Article 39***Repeal of Regulation (EC) No 1559/2007**

1. Regulation (EC) No 1559/2007 is hereby repealed.
2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex IX.

*Article 40***Amendments to Regulations (EC) No 43/2009 and (EC) No 1936/2001**

1. Articles 92 and 93 of Regulation (EC) No 43/2009 shall be deleted.
2. Article 4a(5) and (6) of Regulation (EC) No 1936/2001, as amended by Regulation (EC) No 869/2004 <sup>(1)</sup>, shall be deleted.

*Article 41***Entry into force**

This Regulation shall enter into force on the third day following 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 Luxembourg, 6 April 2009.

*For the Council*  
*The President*  
J. POSPÍŠIL

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<sup>(1)</sup> OJ L 162, 30.4.2004, p. 8.

## ANNEX I

**Additional specific conditions**

These additional specific conditions apply to baitboats and trolling boats in the eastern Atlantic, to vessels fishing for bluefin tuna in the Adriatic Sea for farming purposes and to the coastal artisanal fishery for fresh fish by baitboats, longliners and handliners in the Mediterranean.

1. (a) Each Member State shall ensure that catching vessels to which a special fishing authorisation 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. Member States shall issue the special fishing authorisation only when a vessel has been entered into the ICCAT record of catching vessels authorised to fish actively for bluefin tuna.
- (b) By 15 January each year, each Member State shall send to the Commission the list referred to in point (a) and all subsequent amendments in a computer-readable form.
- (c) Any subsequent changes shall not be accepted unless a notified catching vessel is prevented from participating due to legitimate operational reasons or force majeure. In such circumstances Member States concerned shall immediately inform the Commission, providing:
  - (i) full details of the intended replacement of the catching vessel referred to in paragraph 3;
  - (ii) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.

The Commission shall promptly forward amendments to the ICCAT Secretariat.

2. (a) It shall be prohibited to land and/or tranship from catching vessels referred to in paragraph 1 any quantity of bluefin tuna fished at any place other than ports designated by Member States or by CPCs.
- (b) Member States shall designate a place used for landing or a place close to the shore (designated ports) where landing or transhipment operations of bluefin tuna are permitted.
- (c) For a port to be determined as designated port, the port Member State shall specify permitted landing times and places. The port Member State shall ensure full inspection coverage during all landing times and at all landing places.
- (d) Member States shall transmit to the Commission no later than 15 February of each year a list of designated ports. The Commission shall send this information to the ICCAT Secretariat before 1 March of each year.
3. Each Member State shall ensure that each landing is subject to an inspection in port.
4. Each Member State shall implement a catch reporting regime that ensures effective monitoring of the utilisation of each catching vessel's quota.
5. The master of the catching vessel shall ensure that any quantity of bluefin tuna landed in designated port shall be weighed before first sale or before being transported elsewhere from the port of landing.
6. 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 and the fishing gear used;
  - (b) the catch area and date.

7. Member States whose baitboats, longliners, handliners and trolling boats are authorised to fish for bluefin tuna 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.
-



## ANNEX II

**Specification for logbooks**

Minimum specifications for logbooks:

1. the logbook must be numbered by sheet;
2. the logbook must be completed 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 of operation.

Minimum standard information for logbooks:

1. master's 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 (e.g. length, mesh size, number of hooks);
5. operations at sea with one line (minimum) per day of trip, providing:
  - (a) activity (e.g. 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's signature;
8. observer's 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.

\_\_\_\_\_

## ANNEX III

## ICC/T TRANSFER/TRANSHIPMENT DECLARATION

Document No

Tug/Carrier vessel	Fishing Vessel	Farm of destination	Trap
Name of vessel and radio call sign:	Name of the vessel and radio call sign:		
Flag:	Flag:		
Flag State authorisation No	Flag State authorisation No		
National Register No	National register No		
ICCAT Register No	ICCAT Register No	Name ICCAT Register number	Name ICCAT Register number
IMO No	External identification: Fishing logbook sheet No		

	Day	Month	Hour	Year
Departure				from
Return				to
Transfer/Transhipment				

F, V Master's/trap operator name:

Signature:

Tug/Carrier Master's name:

Signature:

LOCATION OF TRANSHIPMENT

For transshipment, indicate the weight in kilograms or the unit used (e.g. box, basket) and the landed weight in kilograms of this unit: \_\_\_\_\_ kilograms.

[illegible]

ICC/AT Observer signature (if applicable).

**Obligations in case of transfer/transshipment:**

1. The original of the transfer/transport declaration must be provided to the recipient vessel tug/processing/transport).
2. The copy of the transfer/transport declaration must be kept by the correspondent catching vessel or trap.
3. Further transfers or transhipping operations shall be authorised by the relevant CP which authorised the vessel to operate.
4. The original of the transfer/transport 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 transhipping operation shall be recorded in the log book of any vessel involved in the operation.

## ANNEX IV

## Catch report form

[illegible]

ANNEX V

Joint fishing operation

Flag State	Vessel name	ICCAT No	Duration of the operation	Identity of the operators	Vessels individual quota	Allocation key per vessel	Fattening and farming farm destination	
							CPC	ICCAT No

Date ...  
Validation of the flag State ...

\_\_\_\_\_

## ANNEX VI

**ICCAT scheme of joint international inspection**

ICCAT agreed at its Fourth Regular Meeting (Madrid, November 1975) and at its Annual Meeting in 2008 in Marrakesh that:

Pursuant to paragraph 3 of Article IX of the Convention, the ICCAT 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 thereunder:

**I. SERIOUS VIOLATIONS**

1. For the purposes of these procedures, a serious violation means the following violations of the provisions of the ICCAT conservation and management measures adopted by the Commission:
  - (a) fishing without a license, permit or authorisation issued by the flag CPC;
  - (b) failure to maintain sufficient records of catch and catch-related data in accordance with the Commission's reporting requirements or significant misreporting of such catch and/or catch-related data;
  - (c) fishing in a closed area;
  - (d) fishing during a closed season;
  - (e) intentional taking or retention of species in contravention of any applicable conservation and management measure adopted by ICCAT;
  - (f) significant violation of catch limits or quotas in force pursuant to ICCAT rules;
  - (g) using prohibited fishing gear;
  - (h) falsifying or intentionally concealing the markings, identity or registration of a fishing vessel;
  - (i) concealing, tampering with or disposing of evidence relating to investigation of a violation;
  - (j) multiple violations which taken together constitute a serious disregard of measures in force pursuant to ICCAT;
  - (k) assault, resist, intimidate, sexually harass, interfere with, or unduly obstruct or delay an authorised inspector or observer;
  - (l) intentionally tampering with or disabling the VMS;
  - (m) such other violations as may be determined by ICCAT, once these are included and circulated in a revised version of those procedures;
  - (n) fishing with assistance of spotter planes;
  - (o) interference with the satellite monitoring system and/or operating without VMS system;
  - (p) transfer activity without transfer declaration.
2. In the case of any boarding and inspection of a fishing vessel during which the authorised inspectors observe an activity or condition that would constitute a serious violation, as defined in paragraph 1, the authorities of the inspection vessels shall immediately notify the authorities of the fishing vessel, directly as well as through the ICCAT Secretariat.
3. The flag State CPC shall ensure that, following the inspection referred to in paragraph 2 of this Annex, the fishing vessel concerned ceases all fishing activities. The flag State CPC shall require the fishing vessel to proceed immediately to a port designated by it, and where an investigation shall be initiated.

If the vessel is not called to port; the CPC must provide due justification in a timely manner to the Executive Secretary, who shall make it available on request to other Contracting Parties.






## II. CONDUCT OF INSPECTIONS

4. Inspection 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 ICCAT Commission.
5. Ships carrying inspectors shall fly a special flag or pennant approved by the ICCAT 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 ICCAT Commission, as soon as may be practical.
6. Each inspector shall carry an identity document supplied by the authorities of the flag State in the form shown in paragraph 17 of this Annex and giving him an appointment stating that he has authority to act under arrangements approved by the ICCAT Commission. This identity document shall be valid for a minimum of five years.
7. Subject to the arrangements agreed under paragraph 12 of this Annex, a vessel employed for the time being in fishing for tuna or tuna-like fishes in the Convention Area outside the waters within its national jurisdiction shall stop when given the appropriate signal in the International Code of Signals by a ship carrying an inspector unless it is actually carrying out fishing operations, in which case it shall stop immediately once it has finished such operations. The master <sup>(1)</sup> 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 ICCAT 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.
8. On boarding the vessel an inspector shall produce the document described in point 6. Inspections shall be made so that the vessel incurs the minimum interference and inconvenience and the quality of the fish does not deteriorate. An inspector shall limit his enquiries to the ascertainment of the observance of the ICCAT 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 ICCAT 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, which shall transmit copies to the appropriate authorities of the flag State of the vessel and to the ICCAT Commission. Where any infringement of the recommendations is discovered the inspector should, where possible, also inform the competent authorities of the flag State, as notified to the ICCAT Commission, and any inspection ship of the flag State known to be in the vicinity.
9. 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.
10. The inspector shall carry out his 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.
11. Contracting Governments shall consider and act on reports of foreign inspectors under those 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 those arrangements.
12. (a) Contracting Governments shall inform the ICCAT Commission by 1 March each year of their provisional plans for participation in those 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.  
  
(b) 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 ICCAT Commission:  
  
provided however, that implementation of the scheme shall be suspended between any two Contracting Governments if either of them has notified the ICCAT Commission to that effect, pending completion of an agreement.

<sup>(1)</sup> The master refers to individual in charge of the vessel.

13. (a) 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.
- (b) Inspectors shall have the authority to inspect all fishing gear in use or that fishing gear on deck ready for use.
14. The inspector shall affix an identification mark approved by the ICCAT Commission to any fishing gear inspected which appears to be in contravention of the ICCAT Commission's recommendations in force in relation to the flag State of the vessel concerned and shall record this fact in his report.
15. 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.
16. The inspector shall have authority, subject to any limitations imposed by the ICCAT Commission, to examine the characteristics of catches, to establish whether the ICCAT 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).
17. New proposed model Identity Card for inspectors:

<p><b>INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNA</b></p> <p><b>AT</b>  <b>ICCAT</b></p> <p><b>Inspector Identity Card</b></p> <p><b>Contracting Party:</b></p> <p><b>Inspector Name:</b></p> <p><b>Card n°:</b></p> <p><b>Issue Date:</b> Valid five years</p> <p> Photograph</p>	<p><b>AT</b>  <b>ICCAT</b></p> <p>The holder of this document is an ICCAT inspector duly appointed under the terms of the Scheme of Joint International Inspection and Surveillance of the International Commission for the Conservation of the Atlantic Tuna and has the authority to act under the provision of the ICCAT Control and Enforcement measures.</p> <p>.....</p> <p>ICCAT Executive Secretary      Inspector Issuing Authority</p>
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## ANNEX VII

**Regional observer programme**

## ASSIGNMENT OF OBSERVERS

1. Member States shall notify the Commission, by 15 January each year, a list of its observers.
2. The observers shall have the following qualifications to accomplish their tasks:
  - (a) sufficient experience to identify species and fishing gear;
  - (b) satisfactory knowledge of the ICCAT conservation and management measures assessed by a certificate provided by the Member States and based on ICCAT training guidelines;
  - (c) the ability to observe and record accurately;
  - (d) a satisfactory knowledge of the language of the flag of the vessel or farm observed.

## OBLIGATIONS OF THE OBSERVER

3. Observers shall:
  - (a) have completed the technical training required by the guidelines established by ICCAT;
  - (b) be nationals of one of the Member States;
  - (c) be capable of performing the tasks set forth in point 4;
  - (d) be included in the list of observers maintained by ICCAT;
  - (e) not have current financial or beneficial interests in the bluefin tuna fishery.

## OBSERVER TASKS

4. The observer tasks shall be in particular:
  - (a) as regards observers on purse-seine vessels, to monitor the purse-seine vessels' compliance with the relevant conservation and management measures adopted by ICCAT. In particular the observers shall:
    - (i) record and report upon the fishing activities carried out;
    - (ii) observe and estimate catches and verify entries made in the logbook;
    - (iii) issue a daily report of the purse-seine vessels' transfer activities;
    - (iv) sight and record vessels which may be fishing in contravention to ICCAT conservation and management measures;
    - (v) record and report upon the transfer activities carried out;
    - (vi) verify the position of the vessel when engaged in transfer;
    - (vii) observe and estimate products transferred, including through the review of video recordings;
    - (viii) verify and record the name of the fishing vessel concerned and its ICCAT number;
    - (ix) carry out scientific work such as collecting Task II data when required by the Commission, based on the directives from the SCRS;

- (b) as regards observers in the farms, to monitor the farms' compliance with the relevant conservation and management measures adopted by ICCAT. In particular the observers shall:
    - (i) verify the data contained in the transfer declaration and caging declaration, including through the review of video records;
    - (ii) certify the data contained in the transfer declaration and caging declaration;
    - (iii) issue a daily report of the farms' transfer activities;
    - (iv) countersign the transfer declaration and caging declaration;
    - (v) carry out such scientific work, for example collecting samples, as required by the Commission, based on the directives from the SCRS;
  - (c) establish general reports compiling the information collected in accordance with this paragraph and provide the master and farm operator the opportunity to include therein any relevant information;
  - (d) submit to the Secretariat the aforementioned general report within 20 days from the end of the period of observation;
  - (e) exercise any other functions as defined by the Commission.
5. Observers shall treat as confidential all information with respect to the fishing and transfer operations of the purse seiners and of the farms and accept this requirement in writing as a condition of appointment as an observer.
6. Observers shall comply with requirements established in the laws and regulations of the flag or farm State which exercises jurisdiction over the vessel or farm to which the observer is assigned.
7. Observers shall respect the hierarchy and general rules of behaviour which apply to all vessel and farm personnel, provided such rules do not interfere with the duties of the observer under this programme, and with the obligations of vessel and farm personnel set forth in Article 31.
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ANNEX VIII

Format for the communication of Vessel Monitoring System messages

Data element	Field code	Mandatory/ Optional	Type	Contents	Definition
Start record	SR	M			System detail; indicates start of record
Address	AD	M	Char*3	ISO-3166 Address	Message detail; destination; 'EEC' for the Commission
From	FR	M	Char*3	ISO-3166 Address	Message detail; ISO-3 code of the transmitting contracting party
Sequence number	SQ	O	Num*6	NNNNNN	Message detail; message serial number in current year
Type of message	TM	M	Char*3	Code	Message detail; message type, 'POS' as Position report/message to be communicated by VMS or other means by vessels with a defective satellite tracking device
Radio call sign	RC	O <sup>(1)</sup>	Char*7	IRCS Code	Vessel registration detail; international radio call sign of the vessel
Trip number	TN	O	Num*3	NNN	Activity detail; fishing trip serial number in current year
Vessel name	NA	O	Char*30		Vessel registration detail; name of the vessel
Contracting party internal reference number	IR	O <sup>(1)</sup>	Char*12	ISO-3166 + Code	Vessel registration detail. Unique contracting party vessel number as ISO-3 flag State code followed by code (CHR number)
External registration number	XR	O <sup>(1)</sup>	Char*14		Side number of the vessel or IMO number in the absence of a side number
Latitude (decimal)	LT	M	Char*7	+/-DD.ddd	Activity detail; position at time of transmission
Longitude (decimal)	LG	M	Char*8	+/-DDD.ddd	Activity detail; position at time of transmission
Course	CO	M	Char*3	360° degree scale	Course of the vessel
Speed	SP	M	Char*3	Knots * 10	Speed of the vessel
Free text	MS	O	Char*255	Alarms or events	Notification of alarms or events
Date	DA	M	Num*8	YYMMDD	Message detail; date of transmission
Time	TI	M	Num*4	HHMM	Message detail; time of transmission
End of record	ER	M			System detail; indicates end of the record

<sup>(1)</sup> At least one of the field codes RC, IR or XR is mandatory.

Example of message sent via 'Trackwell protocol' on test system (httpsgwt)

<https://fides.ec.europa.eu/httpsgwt.index.php?application=CYP&method=send&message=//SR//AD//EEC//FR//CYP//SQ/28285//TM/POS//RC/ZWXS//TN/001//NA/LA GROSSE POULE//IR/CYP0000000123//XR//ZZ-0604//LT/+47.612//LG/-47.528//CO/280//SP/23//MS/SWITCHING on VMS//DA/20080307//TI//ER//>

## ANNEX IX

## Correlation table

Regulation (EC) No 1559/2007	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	
Article 4	Article 4
Article 5	Article 7
Article 6	Article 8
Article 7	Article 9
Article 8	Article 10
Article 9	Article 11
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14
Article 13	Article 15
Article 14	Article 17
Article 15	Article 18
Article 16	Article 19
Article 17	Article 20
Article 18	Article 21
Article 19	Article 23
Article 20	Article 24
Article 21	Article 26
Article 22	Article 27
Article 23	Article 28
Article 24	Article 29
Article 25	Article 30
Article 26	Article 33
Article 27	Article 34
Article 28	Article 35
Article 29	Article 38



**COMMISSION REGULATION (EC) No 303/2009****of 14 April 2009****establishing the standard import values for determining the entry price of certain fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>,

Having regard to Commission Regulation (EC) No 1580/2007 of 21 December 2007 laying down implementing rules for Council Regulations (EC) No 2200/96, (EC) No 2201/96 and (EC) No 1182/2007 in the fruit and vegetable sector <sup>(2)</sup>, and in particular Article 138(1) thereof,

Whereas:

Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XV, Part A thereto,

HAS ADOPTED THIS REGULATION:

*Article 1*

The standard import values referred to in Article 138 of Regulation (EC) No 1580/2007 are fixed in the Annex hereto.

*Article 2*

This Regulation shall enter into force on 15 April 2009.

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

Done at Brussels, 14 April 2009.

*For the Commission*

Jean-Luc DEMARTY

*Director-General for Agriculture and  
Rural Development*

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<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 350, 31.12.2007, p. 1.

## ANNEX

**Standard import values for determining the entry price of certain fruit and vegetables**

(EUR/100 kg)

CN code	Third country code <sup>(1)</sup>	Standard import value
0702 00 00	JO	93,2
	MA	64,5
	SN	208,5
	TN	139,0
	TR	106,2
	ZZ	122,3
0707 00 05	MA	51,1
	TR	119,4
	ZZ	85,3
0709 90 70	JO	220,7
	MA	84,7
	TR	92,3
	ZZ	132,6
0805 10 20	EG	43,1
	IL	62,1
	MA	44,7
	TN	49,9
	TR	72,7
	ZZ	54,5
0805 50 10	TR	48,8
	ZZ	48,8
0808 10 80	AR	107,8
	BR	76,8
	CA	89,6
	CL	83,2
	CN	77,5
	MK	24,7
	NZ	118,5
	US	127,5
	UY	40,3
	ZA	81,7
0808 20 50	ZZ	82,8
	AR	89,7
	CL	87,1
	CN	64,3
	UY	46,7
	ZA	87,5
	ZZ	75,1

<sup>(1)</sup> Nomenclature of countries laid down by Commission Regulation (EC) No 1833/2006 (OJ L 354, 14.12.2006, p. 19). Code 'ZZ' stands for 'of other origin'.

## COMMISSION REGULATION (EC) No 304/2009

of 14 April 2009

**amending Annexes IV and V to Regulation (EC) No 850/2004 of the European Parliament and of the Council as regards the treatment of waste containing persistent organic pollutants in thermal and metallurgical production processes**

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC <sup>(1)</sup>, and in particular Article 7(6) and Article 14(3) thereof,

Whereas:

- (1) At the eighth meeting of the Conference of the Parties to the Basel Convention updated general technical guidelines for the environmentally sound management of waste consisting of, containing or contaminated with persistent organic pollutants (Decision VIII/16) were adopted. The subsection on thermal and metallurgical production of metals was added to section IV.G.2 dealing with the destruction and irreversible transformation.
- (2) The update of the guidelines should be reflected in Regulation (EC) No 850/2004, because they provide a relevant source for scientific and technical progress in the treatment of wastes containing persistent organic pollutants.
- (3) The updated guidelines also define the levels of destruction and irreversible transformation necessary to ensure that the characteristics of persistent organic pollutants are not exhibited. The methods should, *inter alia*, not exceed the atmospheric emissions value for polychlorinated dibenzo-p-dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) of 0,1 ng TEQ/Nm<sup>3</sup>. This value is identical to the air emission limit value laid down in Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste <sup>(2)</sup>. Because it is essential to require that the facilities for the treatment of waste containing persistent organic pollutants meet the emission limit values for PCDDs and PCDFs laid down in Directive 2000/76/EC those limit values should be applied whether or not the processes are subject to that Directive.
- (4) The updated general technical guidelines on persistent organic pollutants also recommend in section IV.G.1 to separate the part of waste equipment which contains or is contaminated with persistent organic pollutants. This requirement clarifies the implementation of pre-treatment operations as referred to in Part 1 of Annex V to Regulation (EC) No 850/2004. Therefore Part 1 of Annex V to Regulation (EC) No 850/2004 should be amended accordingly.
- (5) The toxic equivalent factors used in Annexes IV and V to Regulation (EC) No 850/2004 to calculate concentration limits for PCDDs and PCDFs were updated by the World Health Organisation in 2005 on the basis of latest scientific information. This should be reflected in Annexes IV and V to Regulation (EC) No 850/2004.
- (6) The measures provided for in this Regulation are the most appropriate to ensure a high level of protection of human health and environment.
- (7) Regulation (EC) No 850/2004 should therefore be amended accordingly.
- (8) The Committee established by Article 18 of Directive 2006/12/EC of the European Parliament and of the Council <sup>(3)</sup> did not deliver an opinion on the measures provided for in this Regulation within the time-limit laid down by its Chairman and the Commission therefore submitted to the Council a proposal relating to the measures. Since, on the expiry of the period laid down in Article 17(2) of Regulation (EC) No 850/2004, the Council had neither adopted the proposed measures nor indicated its opposition to them, they should, under the third subparagraph of Article 5(6) of Council Decision 1999/468/EC <sup>(4)</sup>, be adopted by the Commission.

HAS ADOPTED THIS REGULATION:

## Article 1

Annexes IV and V to Regulation (EC) No 850/2004 are amended in accordance with the Annex to this Regulation.

<sup>(1)</sup> OJ L 158, 30.4.2004, p. 7; corrected by OJ L 229, 29.6.2004, p. 5.  
<sup>(2)</sup> OJ L 332, 28.12.2000, p. 91.

<sup>(3)</sup> OJ L 114, 27.4.2006, p. 9.  
<sup>(4)</sup> OJ L 184, 17.7.1999, p. 23.

*Article 2*

This Regulation shall enter into force on the 20th 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, 14 April 2009.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

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## ANNEX

Annexes IV and V to Regulation (EC) No 850/2004 are amended as follows:

1. Annex IV is amended as follows:

Footnote (\*\*) is replaced by the following:

'(\*\*) The limit is calculated as PCDD and PCDF according to the following toxic equivalency factors (TEFs):

PCDD	TEF
2,3,7,8-TeCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0,1
1,2,3,6,7,8-HxCDD	0,1
1,2,3,7,8,9-HxCDD	0,1
1,2,3,4,6,7,8-HpCDD	0,01
OCDD	0,0003
PCDF	TEF
2,3,7,8-TeCDF	0,1
1,2,3,7,8-PeCDF	0,03
2,3,4,7,8-PeCDF	0,3
1,2,3,4,7,8-HxCDF	0,1
1,2,3,6,7,8-HxCDF	0,1
1,2,3,7,8,9-HxCDF	0,1
2,3,4,6,7,8-HxCDF	0,1
1,2,3,4,6,7,8-HpCDF	0,01
1,2,3,4,7,8,9-HpCDF	0,01
OCDF	0,0003'

2. Annex V is amended as follows:

(a) Part 1 is amended as follows:

- (i) the following is added after 'R1 Use principally as a fuel or other means to generate energy, excluding waste containing PCBs':

'R4 Recycling/reclamation of metals and metal compounds, under the following conditions: The operations are restricted to residues from iron- and steel-making processes such as dusts or sludges from gas treatment or mill scale or zinc-containing filter dusts from steelworks, dusts from gas cleaning systems of copper smelters and similar wastes and lead-containing leaching residues of the non-ferrous metal production. Waste containing PCBs is excluded. The operations are restricted to processes for the recovery of iron and iron alloys (blast furnace, shaft furnace and hearth furnace) and non-ferrous metals (Waelz rotary kiln process, bath melting processes using vertical or horizontal furnaces), provided the facilities meet as minimum requirements the emission limit values for PCDDs and PCDFs laid down in Directive 2000/76/EC of the European Parliament and of the Council of 4 December 2000 on the incineration of waste (\*), whether or not the processes are subject to that Directive, and without prejudice to the other provisions of Directive 2000/76/EC where it applies and to the provisions of Directive 96/61/EC.

(\*) OJ L 332, 28.12.2000, p. 91.'

- (ii) the following sentence is inserted before the last sentence:

'Where only part of a product or waste, such as waste equipment, contains or is contaminated with persistent organic pollutants, it shall be separated and then disposed of in accordance with the requirements of this Regulation.';

(b) in Part 2, footnote 6 is replaced by the following:

'<sup>(6)</sup> The limit is calculated as PCDD and PCDF according to the following toxic equivalency factors (TEFs):

PCDD	TEF
2,3,7,8-TeCDD	1
1,2,3,7,8-PeCDD	1
1,2,3,4,7,8-HxCDD	0,1
1,2,3,6,7,8-HxCDD	0,1
1,2,3,7,8,9-HxCDD	0,1
1,2,3,4,6,7,8-HpCDD	0,01
OCDD	0,0003
PCDF	TEF
2,3,7,8-TeCDF	0,1
1,2,3,7,8-PeCDF	0,03
2,3,4,7,8-PeCDF	0,3
1,2,3,4,7,8-HxCDF	0,1
1,2,3,6,7,8-HxCDF	0,1
1,2,3,7,8,9-HxCDF	0,1
2,3,4,6,7,8-HxCDF	0,1
1,2,3,4,6,7,8-HpCDF	0,01
1,2,3,4,7,8,9-HpCDF	0,01
OCDF	0,0003'

## II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

## DECISIONS

## COMMISSION

## COMMISSION DECISION

of 14 April 2009

**concerning the non-inclusion of certain substances in Annex I, IA or IB to Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market**

(notified under document number C(2009) 2566)

(Text with EEA relevance)

(2009/324/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market <sup>(1)</sup>, and in particular the second subparagraph of Article 16(2) thereof,

Whereas:

(1) Commission Regulation (EC) No 1451/2007 of 4 December 2007 on the second phase of the 10-year work programme referred to in Article 16(2) of Directive 98/8/EC of the European Parliament and of the Council concerning the placing of biocidal products on the market <sup>(2)</sup> establishes a list of active substances to be assessed, with a view to their possible inclusion in Annex I, IA or IB to Directive 98/8/EC.

(2) For a number of substance/product type combinations included in that list, the original participants discontinued their participation in the review programme.

(3) Consequently, and pursuant to Articles 11(2), 12(1) and 13(5) of Regulation (EC) No 1451/2007, the Commission informed the Member States thereof. That information was also made public by electronic means on 14 June 2006.

(4) Within the period of three months from that publication, other persons indicated an interest in taking over the role of participant for some substance/product type combinations.

(5) Commission Decision 2007/794/EC <sup>(3)</sup> fixed the new deadline for the submission of a complete dossier to 30 April 2008 for these substance/product type combinations.

(6) No complete dossiers were however received within this time period for certain of these substance/product type combinations.

(7) Pursuant to Articles 12(4) and 12(5) of Regulation (EC) No 1451/2007, the substances should therefore not be included for the product-types concerned in Annexes I, IA or IB to Directive 98/8/EC.

(8) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Biocidal Products,

HAS ADOPTED THIS DECISION:

*Article 1*

The substances indicated in the Annex to this Decision shall not be included for the product-types concerned in Annexes I, IA or IB to Directive 98/8/EC.

<sup>(1)</sup> OJ L 123, 24.4.1998, p. 1.

<sup>(2)</sup> OJ L 325, 11.12.2007, p. 3.

<sup>(3)</sup> OJ L 320, 6.12.2007, p. 35.



*Article 2*

For the purposes of Article 4(2) of Regulation (EC) No 1451/2007, this Decision shall apply from 1 June 2009.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels, 14 April 2009.

*For the Commission*

Stavros DIMAS

*Member of the Commission*

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*ANNEX***Substances not to be included in Annexes I, IA or IB to Directive 98/8/EC with regard to certain product-types**

Name	EC No	CAS No	Product-type	RMS
Linalool	201-134-4	78-70-6	19	DK
Propoxur	204-043-8	114-26-1	18	BE
Fenitrothion	204-524-2	122-14-5	18	UK
Methyl anthranilate	205-132-4	134-20-3	19	FR
Oct-1-ene-3-ol	222-226-0	3391-86-4	19	N
5,5-dimethyl-perhydro-pyrimidin-2-one.alpha.-(4-trifluoromethylstyryl)-.alpha.-(4-trifluoromethyl)cinnamylidenehydrazone/Hydramethylnon	405-090-9	67485-29-4	18	IE

**CORRIGENDA**

**Corrigendum to Council Regulation (EC) No 1279/2007 of 30 October 2007 imposing a definitive anti-dumping duty on certain iron or steel ropes and cables originating in the Russian Federation, and repealing the anti-dumping measures on imports of certain iron or steel ropes and cables originating in Thailand and Turkey**

*(Official Journal of the European Union L 285 of 31 October 2007)*

On page 25, in Article 1(2), column 'Company', second entry of the table:

*for:* 'Closed Joint Stock Company Severstal-Metiz ...',

*read:* 'Joint Stock Company Severstal-metiz ...'.

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