Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007

REGULATION (EU) 2017/2107 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 November 2017

laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) The objective of the common fisheries policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(3)], is to ensure an exploitation of marine biological resources that provides long-term environmental, economic and social sustainability.

(2) By Council Decision 98/392/EC[(4)] the Union approved the United Nations Convention on the Law of the Sea, which contains, inter alia, principles and rules with regard to the conservation and management of marine living resources. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.

(3) Pursuant to Council Decision 86/238/EEC[(5)], the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas ('the ICCAT Convention') since 14 November 1997.

(4) The ICCAT Convention provides a framework for regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting-up of an International Commission for the Conservation of Atlantic Tunas (ICCAT).

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2017/2107 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) ICCAT has the authority to adopt compulsory decisions (recommendations) for the conservation and management of the fisheries under its purview, which are binding for the Contracting Parties. Those recommendations are essentially addressed to the Contracting Parties to the ICCAT Convention, but also contain obligations for private operators (e.g. vessel masters). The ICCAT recommendations enter into force six months following their adoption and, in respect of the Union, they must be implemented into Union law as soon as possible.

(6) A Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets[(6)] will provide that that Regulation is to apply without prejudice to the provisions in Union law implementing provisions adopted by the regional fisheries management organisations (RFMOs) to which the Union is a Contracting Party.

(7) The last implementation of the ICCAT conservation and enforcement recommendations was done through Council Regulations (EC) No 1936/2001[(7)] and (EC) No 520/2007[(8)].

(8) The ICCAT recommendation concerning a multiannual recovery plan for Bluefin tuna in the eastern Atlantic and Mediterranean was implemented by Regulation (EU) 2016/1627 of the European Parliament and of the Council[(9)]. This Regulation does not cover such multiannual recovery plan.

(9) When implementing those recommendations, the Union and Member States should endeavour to promote coastal fishing activities and the use of fishing gear and techniques which are selective and have a reduced environmental impact, including gear and techniques used in traditional and artisanal fisheries, thereby contributing to a fair standard of living for local economies.

(10) Union legislation should merely implement the ICCAT recommendations in order to place Union and third country fishermen on an equal footing and to ensure that the rules can be accepted by all.

(11) The delegated acts and implementing acts provided for in this Regulation should be without prejudice to the implementation of future ICCAT recommendations into Union law through the ordinary legislative procedure.

(12) In order to swiftly implement into Union law future amendments to the ICCAT recommendations, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annexes to this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(10)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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(13) In order to ensure uniform conditions for the implementation of the provisions of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[(11)].

(14) To ensure compliance with the CFP, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) fishing. In particular, Council Regulation (EC) No 1224/2009[(12)] establishes a Union system for control, inspection and enforcement with a global and integrated approach so as to ensure compliance with all the rules of the CFP. Commission Implementing Regulation (EU) No 404/2011[(13)] lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008[(14)] establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already implement a number of the provisions laid down in the ICCAT recommendations. It is therefore not necessary to include those provisions in this Regulation.

(15) The ICCAT recommendations, read together with applicable rules laid down in Regulation (EC) No 1224/2009, allow for large-scale pelagic longline vessels to tranship at sea in non-Union waters within the ICCAT zone. However, the Union should comprehensively and systematically address that issue within the framework of the RFMOs with a view to extending the Union prohibition on transhipment at sea in Union waters to all waters.

(16) Article 15(1) of Regulation (EU) No 1380/2013 introduced a landing obligation which applies from 1 January 2015 to small and large-scale pelagic fisheries, fisheries for industrial purposes and fisheries for salmon in the Baltic sea. However, under Article 15(2) of that Regulation, the landing obligation is without prejudice to the Union's international obligations, such as those resulting from ICCAT recommendations. Under that same provision the Commission is empowered to adopt delegated acts, for the purpose of implementing such international obligations into Union law, including, in particular, derogations from the landing obligation. Accordingly, the discard in some fisheries for small and large-scale pelagic fisheries and fisheries for industrial purposes is allowed in certain situations laid down in Commission Delegated Regulation (EU) 2015/98[(15)].

(17) Council Regulation (EC) No 1984/2003[(16)] establishes statistical document programmes for swordfish and bigeye tuna in accordance with the relevant ICCAT provisions. As new provisions on statistical programmes have been adopted by ICCAT in relation to transhipment at sea, it is appropriate to amend Regulation (EC) No 1984/2003 to implement those provisions into Union law.

(18) Many ICCAT recommendations have changed or have been repealed in recent years. Therefore, for reasons of clarity, simplification and legal certainty, it is appropriate to amend Regulations (EC) No 1936/2001 and (EC) No 520/2007,

HAVE ADOPTED THIS REGULATION:

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TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down management, conservation and control provisions relating to fishing for highly migratory fish species managed by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Article 2

Scope

This Regulation applies to:

(a) Union fishing vessels, and Union vessels engaged in recreational fisheries, which operate in the ICCAT Convention area and, in the case of transhipments, also outside the ICCAT Convention area if they tranship species caught in that area;

(b) third country vessels which are inspected in Member States ports and which carry ICCAT species or fishery products originating from such species that have not been previously landed or transhipped at ports;

(c) third country fishing vessels and third country vessels engaged in recreational fisheries which operate in Union waters.

Article 3

Relationship to other Union acts

This Regulation applies without prejudice to the provisions laid down in a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets[17] and in Regulation (EU) 2016/1627.

The measures provided for in this Regulation apply in addition to those provided for in Regulations (EC) No 1005/2008 and (EC) No 1224/2009.

Article 4

Definitions

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

(1) ‘ICCAT species’ means species listed in Annex I;

(2) ‘tropical tuna’ means bigeye tuna, yellowfin tuna and skipjack tuna;

(3) ‘fishing vessel’ means any vessel equipped for commercial exploitation of marine biological resources or a bluefin tuna trap;

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(4) ‘catching vessel’ means a fishing vessel used for the purpose of the capture of marine biological resources;

(5) ‘Union fishing vessel’ means a fishing vessel flying the flag of a Member State and registered in the Union;

(6) ‘fishing authorisation’ means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;

(7) ‘special fishing authorisation’ means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities with specific gear during a specified period, in a given area or for a given fishery under specific conditions;

(8) ‘transhipment’ means the unloading of all or any fisheries products on board a vessel to another vessel;

(9) ‘recreational fishery’ means non-commercial fishing activities exploiting marine biological resources for recreation, tourism or sport;

(10) ‘Task I data’ means data defined as Task I by ICCAT in the ‘Field manual for statistics and sampling Atlantic tunas and tuna-like fish’;

(11) ‘Task II data’ means data defined as Task II by ICCAT in the ‘Field manual for statistics and sampling Atlantic tunas and tuna-like fish’;

(12) ‘CPC’ means contracting parties to the ICCAT Convention and cooperating non-contracting parties, entities or fishing entities;

(13) ‘ICCAT Convention area’ means all waters of the Atlantic Ocean and adjacent seas;

(14) ‘sustainable fisheries partnership agreement’ means an international agreement as defined in point 37 of Article 4(1) of Regulation (EU) No 1380/2013;

(15) ‘vessel length’ means the distance measured in a straight line between the foremost point of the bow and the aftermost point of the stern;

(16) ‘large-scale pelagic longline vessel’ means a pelagic longline vessel greater than 24 metres in length overall;

(17) ‘large-scale fishing vessel’ means a fishing vessel greater than 20 metres in length overall;

(18) ‘large-scale catching vessel’ means a catching vessel greater than 20 metres in length overall;

(19) ‘ICCAT record of large-scale fishing vessels’ means the list, maintained by the ICCAT Secretariat, of large-scale fishing vessels authorised to target ICCAT species in the ICCAT Convention area;

(20) ‘support vessel’ means a vessel other than a craft carried on board that is not equipped with an operational fishing gear and that facilitates, assists or prepares fishing activities, including by supplying a catching vessel;

(21) ‘carrier vessel’ means a support vessel engaged in transhipment and receiving ICCAT species from a large-scale pelagic longline vessel;