Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009

REGULATION (EU) 2016/1627 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 September 2016

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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 living aquatic resources that provides sustainable economic, environmental and social conditions.

(2) The Union is Party to the International Convention for the Conservation of Atlantic Tunas[(4)] ('the Convention').

(3) At its 15th special meeting in 2006, the International Commission for the Conservation of Atlantic Tunas ('ICCAT'), established by the Convention, adopted Recommendation 06-05 establishing a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean ending in 2022 ('the recovery plan'). That Recommendation entered into force on 13 June 2007.

(4) The recovery plan takes into account the specificities of the different types of gear and fishing techniques. When implementing the recovery plan, 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.

(5) ICCAT Recommendation 06-05 was implemented into Union law by Council Regulation (EC) No 1559/2007[(5)].

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(6) At its 16th special meeting in 2008, ICCAT adopted Recommendation 08-05 amending Recommendation 06-05. In order to rebuild the stock of bluefin tuna, Recommendation 08-05 provided for a gradual 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 reinforcing the ICCAT Scheme of Joint International Inspection.

(7) ICCAT Recommendation 08-05 was implemented into Union law by Council Regulation (EC) No 302/2009[(6)].

(8) At its 17th special meeting in 2010, ICCAT adopted Recommendation 10-04 amending Recommendation 08-05. In order to rebuild the stock of bluefin tuna, Recommendation 10-04 established a further reduction of the total allowable catch and the fishing capacity and it reinforced the control measures, in particular those concerning transfer and caging operations. It also provided for additional advice by the Standing Committee on Research and Statistics of ICCAT ('SCRS') in 2012 on the identification of spawning grounds and on the creation of sanctuaries.

(9) In order to implement the revised international conservation measures set out in Recommendation 10-04 into Union law, Regulation (EC) No 302/2009 was amended by Regulation (EU) No 500/2012 of the European Parliament and of the Council[(7)].

(10) At its 18th special meeting in 2012, ICCAT adopted Recommendation 12-03 amending Recommendation 10-04. In order to strengthen the effectiveness of the recovery plan, Recommendation 12-03 set up technical measures concerning the transfer and caging operations of live bluefin tuna, new catch reporting requirements, the implementation of the ICCAT regional observer programme and changes of the fishing seasons. Furthermore, it reinforced the role of the SCRS with regard to the assessment of bluefin tuna stock.

(11) At its 23rd regular meeting in 2013, ICCAT adopted Recommendation 13-07 amending Recommendation 12-03 by introducing small changes on fishing seasons which do not affect the Union fleet. Furthermore, Recommendation 13-08 was adopted which complements the recovery plan. Recommendation 13-08 set up a common procedure for the use of stereoscopical camera systems to estimate the quantities of bluefin tuna at the point of caging and introduced a flexible starting date for the fishing season of baitboats and trolling boats in the eastern Atlantic.

(12) In order to implement essential measures, such as those on fishing seasons, of Recommendations 12-03 and 13-08 into Union law, Regulation (EC) No 302/2009 was further amended by Regulation (EU) No 544/2014 of the European Parliament and of the Council[(8)].

(13) At its 19th special meeting in 2014, ICCAT adopted Recommendation 14-04 amending Recommendation 13-07 and repealing Recommendation 13-08. Whilst some of the existing control provisions were rationalised, the procedures for the use of stereoscopic camera at the point of caging were further specified and measures specific to release operations and the treatment of dead fish were introduced in the recovery plan.

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(14) Recommendation 14-04 is binding on the Union.

(15) All the amendments to the recovery plan adopted by ICCAT in 2012, 2013 and 2014, which have not yet been subject to implementation, should be implemented into Union law. As that implementation concerns the recovery plan whose objectives and measures were defined by ICCAT, this Regulation does not cover all the content of multiannual plans as set out in Articles 9 and 10 of Regulation (EU) No 1380/2013.

(16) Regulation (EU) No 1380/2013 establishes the concept of minimum conservation reference sizes. In order to ensure consistency, the ICCAT concept of minimum sizes should be transposed into Union law as minimum conservation reference sizes. Consequently, the references in Commission Delegated Regulation (EU) 2015/98[(9)] to minimum sizes of bluefin tuna should be read as references to minimum conservation reference sizes in this Regulation.

(17) In order to ensure uniform conditions for the implementation of the provisions of this Regulation relating to transfer operations, caging operations and recording and reporting of trap and vessel activities, 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[(10)].

(18) Certain provisions of Regulation (EC) No 302/2009 have become obsolete, in particular since they are now covered by other Union acts. Other provisions should be updated in order to reflect changes in legislation, in particular those resulting from the adoption of Regulation (EU) No 1380/2013.

(19) In particular, Council Regulation (EC) No 1224/2009[(11)] 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, and Commission Implementing Regulation (EU) No 404/2011[(12)] lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008[(13)] establishes a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. Those acts now cover some matters governed by Regulation (EC) No 302/2009 and, in particular, Article 33 thereof on enforcement measures and Annex VIII on vessel monitoring system (VMS) transmission. It is therefore not necessary to include those provisions in this Regulation.

(20) In accordance with Implementing Regulation (EU) No 404/2011, the conversion factors adopted by the SCRS apply to calculate the equivalent round weight of processed bluefin tuna, including for the purpose of this Regulation.

(21) Moreover, in accordance with Article 95 of Regulation (EC) No 1224/2009, Commission Implementing Decision 2014/156/EU[(14)] has been adopted. That Implementing Decision establishes, inter alia, target benchmarks and objectives for the control of the bluefin tuna fishery in the eastern Atlantic and the Mediterranean.

(22) ICCAT Recommendation 06-07 set up a sampling programme for the estimation of the number-at-size in the context of bluefin tuna farming activities. That provision was implemented by Article 10 of Regulation (EC) No 302/2009. It is not necessary that

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this Regulation specifically provides for the sampling programme, as the needs of that sampling programme are now fully covered by the programmes set up by paragraph 83 of Recommendation 14-04, which is to be implemented by this Regulation.

(23) For reasons of clarity, simplification and legal certainty, Regulation (EC) No 302/2009 should therefore be repealed.

(24) For the purpose of the Union's compliance with its international obligations under the Convention, Delegated Regulation (EU) 2015/98 provides for derogations from the landing obligation for bluefin tuna set out in Article 15 of Regulation (EU) No 1380/2013. Delegated Regulation (EU) 2015/98 implements certain provisions of ICCAT Recommendation 13-07 that establish a discard and release obligation for vessels and traps catching bluefin tuna in the eastern Atlantic and the Mediterranean in certain cases. This Regulation therefore does not need to cover such discard and release obligations and will consequently be without prejudice to the corresponding provisions of Delegated Regulation (EU) 2015/98,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1 This Regulation lays down the general rules for the application by the Union of the recovery plan as defined in point (1) of Article 3.

2 This Regulation applies to bluefin tuna (*Thunnus thynnus*) in the eastern Atlantic and the Mediterranean.

Article 2

Objective

The objective of this Regulation, in accordance with the recovery plan as defined in point (1) of Article 3, is to achieve a biomass of bluefin tuna corresponding to the maximum sustainable yield by 2022 with at least a 60 % probability of achieving that objective.

Article 3

Definitions

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

(1) ‘recovery plan’ means the multiannual recovery plan for bluefin tuna, which applies from 2007 to 2022 and was recommended by ICCAT;

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(2) ‘fishing vessel’ means any powered vessel used or intended for use for the purposes of the commercial exploitation of bluefin tuna resources, including catching vessels, processing vessels, support vessels, towing vessels, vessels engaged in transhipment and transport vessels equipped for the transportation of tuna products and auxiliary vessels, except container vessels;

(3) ‘catching vessel’ means a vessel used for the purposes of the commercial capture of bluefin tuna resources;

(4) ‘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 processing;

(5) ‘auxiliary vessel’ means any vessel used to transport dead bluefin tuna (not processed) from a transport/farming cage, a purse seine net or a trap to a designated port and/or to a processing vessel;

(6) ‘towing vessel’ means any vessel used for towing cages;

(7) ‘support vessel’ means any other fishing vessel referred to under point (2);

(8) ‘fishing actively’ means, for any catching vessel and trap, the fact that it targets bluefin tuna during a given fishing season;

(9) ‘joint fishing operation’ means any operation between two or more purse seiners where the catch of one purse seiner is attributed to one or more other purse seiners in accordance with an allocation key;

(10) ‘transfer operations’ means:

(i) any transfer of live bluefin tuna from the catching vessel's net to the transport cage;

(ii) any transfer of live bluefin tuna from the transport cage to another transport cage;

(iii) any transfer of the cage with bluefin tuna from a towing vessel to another towing vessel;

(iv) any transfer of live bluefin tuna from one farm to another;

(v) any transfer of live bluefin tuna from the trap to the transport cage;

(11) ‘control transfer’ means any additional transfer being implemented at the request of the fishing/farming operators or the control authorities for the purpose of verifying the number of fish being transferred;

(12) ‘trap’ means fixed gear anchored to the bottom, usually containing a guide net that leads bluefin tuna into an enclosure or series of enclosures where it is kept prior to harvesting;

(13) ‘caging’ means the transfer of live bluefin tuna from the transport cage or trap to the farming cages;

(14) ‘farming’ means caging of bluefin tuna in farms and subsequent feeding aiming to fatten and increase their total biomass;

(15) ‘farm’ means an installation used for the farming of bluefin tuna caught by traps and/or purse seiners;