Regulation (EU) No 500/2012 of the European Parliament and of the Council of 13 June 2012 amending Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean

REGULATION (EU) No 500/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 June 2012

amending Council Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean

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 Union is a Party to the International Convention for the Conservation of Atlantic Tunas (hereinafter 'the Convention').

(2) At its 16th Special Meeting in 2008, the International Commission for the Conservation of Atlantic Tunas (hereinafter 'ICCAT'), established by the Convention, adopted Recommendation 08-05 to establish a new recovery plan for bluefin tuna in the eastern Atlantic and in the Mediterranean, replacing the previous recovery plan adopted in 2006. In anticipation of Recommendation 08-05 becoming effective, Council Regulation (EC) No 302/2009 was adopted[(3)].

(3) At its 17th Special Meeting in 2010, ICCAT adopted Recommendation 10-04 amending the multiannual recovery plan for bluefin tuna. In order to rebuild the stock, Recommendation 10-04 provides for a further reduction of the total allowable catch, for the strengthening of measures to reduce the fishing capacity and for the reinforcement of the control measures, in particular concerning the transfer and the caging operations, and foresees additional advice by the Standing Committee on Research and Statistics (SCRS) in 2012 on the identification of spawning grounds and on the creation of sanctuaries.

(4) Recommendation 10-04 is binding on the Union.

(5) In addition, certain provisions of Regulation (EC) No 302/2009 have become obsolete and should be deleted. Other provisions should be updated in order to reflect changes in legislation, in particular those resulting from the adoption of Council Regulation

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(EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy[(4)].

(6) In order to provide for uniform conditions pertaining to transfer operations, caging operations and recording and reporting of tuna trap 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 of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers[(5)].

(7) The term 'Community' used in the enacting terms of Regulation (EC) No 302/2009 should be changed in order to take into account the entry into force, on 1 December 2009, of the Treaty of Lisbon.

(8) Recommendation 10-04 became effective on 13 August 2011. However, all Contracting Parties to the Convention, including the Union, agreed to apply those of its provisions applicable to the observer coverage, in the case of the Union to be ensured by the Member States, from 1 January 2011. Consequently, it is appropriate for the corresponding provisions of this Regulation to apply retroactively from 1 January 2011.

(9) Regulation (EC) No 302/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 302/2009 is hereby amended as follows:

(1) in Article 1, Article 4(13), Article 9(3), (4), (5), (8), (9) and (10), Article 11(1), Article 14(4), Article 15(3), Article 18(2), Article 21(1) and (4), Article 23(6), Article 29(1), (3), (4) and (5), Article 31(4) and Article 34(2) and (3), the noun 'Community', or the corresponding adjective, is replaced by the noun 'Union', or the corresponding adjective, and any grammatical adjustments needed as a consequence of this replacement shall be made;

(2) in Article 1, the third paragraph is replaced by the following:

> The objective of the recovery plan that is in force from 2007 to the end of 2022 shall be to achieve a biomass corresponding to the maximum sustainable yield with at least 60 % probability.;

(3) Article 2 is amended as follows:

(a) point (d) is replaced by the following:

> (d) "auxiliary vessel" means any vessel used to transport dead bluefin tuna (not processed) from a cage or a tuna trap to a designated port or to a processing vessel;;

(b) point (h) is replaced by the following:

> (h) "transfer operations" means:
>
> (i) any transfer of live bluefin tuna from the catching vessel's net to the transport cage;

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

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

(iv) any transfer of dead bluefin tuna from the transport cage to an auxiliary vessel;

(v) any transfer from a bluefin tuna farm or a tuna trap to a processing vessel or to a transport vessel, or any transfer of a cage containing bluefin tuna from one farm to another;

(vi) any transfer of live bluefin tuna from a tuna trap to a transport cage.;

(c) point (l) is replaced by the following:

(l) "farming" means the caging of bluefin tuna for a period longer than six months, with the aim of increasing the biomass;;

(d) the following point is added:

(q) "responsible Member State" and "Member State responsible" mean the flag Member State or the Member State in whose jurisdiction the tuna trap or farm is located or, if the farm or tuna trap is located on the high seas, the Member State where the tuna trap or farm operator is established;;

(4) Article 4 is amended as follows:

(a) paragraph 4 is replaced by the following:

4. No later than 30 September each year, Member States shall transmit to the Commission the provisional annual fishing plan relating to the following year. The Commission shall compile the provisional annual national fishing plans and integrate them into the Union fishing plan that is to be transmitted to the ICCAT Secretariat for endorsement by ICCAT.

No later than 31 January each year, Member States shall transmit the final annual fishing plan to the Commission. The Commission shall compile the final annual national fishing plans and integrate them into the Union fishing plan that is to be transmitted to the ICCAT Secretariat by 1 March of each year.;

(b) paragraphs 12 and 14 are deleted;

(5) Article 5 is amended as follows:

(a) paragraph 7 is replaced by the following:

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:

a by the beginning of 2010, for each Member State, at least 25 % of the discrepancy between its fishing capacity and its fishing capacity commensurate with its quota;

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b by the beginning of 2011, for each Member State, at least 75 % of the discrepancy between its fishing capacity and its fishing capacity commensurate with its quota;

c by the beginning of 2012, for each Member State, at least 95 % of the discrepancy between its fishing capacity and its fishing capacity commensurate with its quota;

d by the beginning of 2013, for each Member State, 100 % of the discrepancy between its fishing capacity and its fishing capacity commensurate with its quota.

The calculation of the fishing capacity reduction shall be based on the catch rates for categories of vessels in accordance with the methodology approved at the 2009 ICCAT annual meeting.

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

(b) paragraph 9 is replaced by the following:

9. Each Member State shall establish a management plan in respect of fishing capacity for 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. Furthermore, the plan shall include detailed information concerning the ways used, in addition to scrapping, by the Member State in order to eliminate overcapacity. If necessary, the plan shall be revised and submitted on an annual basis to the Commission by 15 August of each year.

The Commission shall compile the national management plans and integrate them into the Union management plan of fishing capacity that is to be submitted to ICCAT for discussion and approval.;

(6) Article 7 is amended as follows:

(a) paragraph 2 is replaced by the following:

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

(b) paragraph 6 is deleted;

(7) in Article 14, paragraph 2 is replaced by the following:

2. No retroactive submissions shall be accepted. Subsequent changes to the lists referred to in paragraph 1 during a calendar year shall only be accepted if the notified fishing vessel is prevented from participating due to legitimate operational reasons or *force majeure*. In such circumstances the Member State concerned shall immediately inform the Commission of that fact, and shall provide:

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

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

(8) in Article 18, paragraph 1 is replaced by the following:

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1. In addition to complying with Articles 14, 15, 23 and 24 of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy[6], the master of an EU catching vessel shall, if applicable, enter in the logbook the information listed in Annex II to this Regulation.;

(9) in Article 19(1), the following subparagraph is added:

Joint fishing operations with other CPCs shall not be permitted.;

(10) Article 22 is replaced by the following:

Article 22

Transfer operations

1 Before any transfer operation, the master of a catching or towing vessel or the operator of the farm or tuna trap where the transfer in question originates shall send to the competent authorities of the respective responsible Member State a prior notification of transfer indicating:

a the name of the catching vessel, farm or tuna trap and the ICCAT register number;

b the estimated time of transfer;

c the estimate of the quantity of bluefin tuna to be transferred;

d information on the position (latitude/longitude) where the transfer will take place as well as the identifiable cage numbers;

e the name of the receiving towing vessel, the number of cages towed and, where appropriate, the ICCAT register number;

f the port, farm or cage of destination of the bluefin tuna.

2 The authorities of the responsible Member State shall decide for each transfer operation whether to grant authorisation. For this purpose, a unique identification number shall, for each transfer operation, be assigned and communicated to the master of the fishing vessel, the tuna trap operator or the farm operator, as appropriate. Where authorisation is granted, that number shall comprise the three-letter CPC code, the four numbers indicating the year, and the three letters "AUT", (authorisation), followed by sequential numbers. Where authorisation is refused, the number shall comprise the three letters of the CPCs code, the four numbers indicating the year, and the three letters "NEG" (non-authorisation), followed by sequential numbers. Transfer operations shall not begin without a prior authorisation.

The transfer shall be authorised or not authorised by the Member State responsible for the catching vessel, towing vessel, farm or tuna trap, as appropriate, within 48 hours following the submission of the prior notification of transfer. The Member State shall not authorise the transfer if, on receipt of the prior notification of transfer, it considers that:

a the catching vessel or the tuna trap that is declared to have caught the fish does not have sufficient quota;

b the quantity of fish has not been duly reported by the catching vessel or the tuna trap operator or has not been authorised to be caged, and has not been taken into account for the consumption of the quota that may be applicable;