Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna Thunnus thynnus and amending Council Regulation (EC) No 1984/2003

REGULATION (EU) No 640/2010 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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establishing a catch documentation programme for bluefin tuna *Thunnus thynnus* and amending Council Regulation (EC) No 1984/2003

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,

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 Contracting Party to the United Nations Convention of 10 December 1982 on the Law of the Sea approved by Council Decision 98/392/EC[(3)], to the Agreement on the implementation of the provisions of that Convention relating to the conservation and management of straddling stocks and highly migratory fish stocks ratified by Council Decision 98/414/EC[(4)] and to the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas accepted by Council Decision 96/428/EC[(5)]. In the framework of those international obligations, the Union participates in efforts made to ensure sustainable management of highly migratory fish stocks.

(2) The Union is a Contracting Party to the International Convention for the Conservation of Atlantic Tunas pursuant to Council Decision 86/238/EEC[(6)] (ICCAT Convention). The ICCAT Convention provides for a framework for regional cooperation on the conservation and management of tuna and tuna-like species in the Atlantic Ocean and adjacent seas through an International Commission for the Conservation of Atlantic Tunas (ICCAT), and for the adoption of recommendations applicable in the ICCAT Convention area which become binding on the Contracting Parties, cooperating non-contracting Parties, entities and fishing entities (CPCs).

(3) ICCAT Recommendations 1992-01, 1993-03, 1996-10, 1997-04, 1998-12, 03-19 and 06-15 and Resolutions 1993-02, 1994-04 and 1994-05 on a statistical document programme for bluefin tuna have been implemented by Council Regulation (EC) No 1984/2003 of 8 April 2003 introducing a system for the statistical monitoring of trade in bluefin tuna, swordfish and bigeye tuna within the Community[(7)].

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) No 640/2010 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*

(4) As part of the measures to regulate stocks of bluefin tuna, to improve the quality and reliability of statistical data and in order to prevent, deter and eliminate illegal fishing, ICCAT adopted at its annual meeting in Recife (Brazil), on 15 November 2009, Recommendation 09-11 amending Recommendation 08-12 on an ICCAT bluefin tuna catch documentation programme. That Recommendation entered into force on 1 June 2010 and needs to be implemented by the Union.

(5) In order to ensure that the provisions on an ICCAT bluefin tuna catch documentation programme are easily readable and applied uniformly, the relevant provisions of Regulation (EC) No 1984/2003 related to the ICCAT bluefin tuna statistical document and re-export certificate should be deleted. Therefore, Regulation (EC) No 1984/2003 should be amended accordingly.

(6) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union in respect of the transposition of new conservation measures adopted by ICCAT, thus updating and supplementing 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,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

This Regulation establishes a Union bluefin tuna catch documentation programme in order to support the implementation of conservation and management measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT), incorporating the provisions of the ICCAT bluefin tuna catch documentation programme with a view to identifying the origin of all bluefin tuna.

Article 2

Definitions

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

(a) ‘Bluefin tuna’ means fish of the species *Thunnus thynnus* falling within the codes of the Combined Nomenclature listed in Annex I;

(b) ‘Domestic trade’ means:

(i) trade, in one Member State or between two or more Member States, in bluefin tuna caught in the ICCAT Convention area by a Union catching vessel or trap, which is landed in the territory of the Union; and

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(ii) trade, in one Member State or between two or more Member States, in farmed bluefin tuna caught in the ICCAT Convention area by a Union catching vessel, which is caged in a farm established in the territory of the Union;

(c) 'Export' means any movement to a third country of bluefin tuna caught in the ICCAT Convention area by a Union catching vessel or trap, including from the territory of the Union, from third countries or from fishing grounds;

(d) 'Import' means the introduction into the territory of the Union, including for caging, fattening, farming or transhipment purposes, of bluefin tuna caught in the ICCAT Convention area by a third country catching vessel or trap;

(e) 'Re-export' means any movement from the territory of the Union of bluefin tuna which had been previously imported into the territory of the Union;

(f) 'ICCAT Convention area' means the area determined by the International Convention for the Conservation of Atlantic Tunas;

(g) 'Flag Member State' means the Member State where the catching vessel is flagged;

(h) 'Trap Member State' means the Member State where the trap is established;

(i) 'Farm Member State' means the Member State where the farm is established;

(j) 'CPCs' means Contracting Parties, cooperating non-contracting Parties, entities and fishing entities of ICCAT;

(k) 'Lot' means a quantity of bluefin tuna products of the same presentation and originating in the same relevant geographical area and the same fishing vessel, or group of fishing vessels, or the same trap.

CHAPTER II

BLUEFIN TUNA CATCH DOCUMENT

Article 3

General provisions

1 Member States shall require a completed bluefin tuna catch document ('catch document') for each bluefin tuna landed or transhipped at their ports, caged as specified in Annex IV, and harvested from their farms.

2 Each lot of bluefin tuna domestically traded, imported into, exported or re-exported from the territory of the Union shall be accompanied by a validated catch document – except in cases where Article 4(3) applies – and, where applicable, an ICCAT transfer declaration or a validated bluefin tuna re-export certificate ('re-export certificate').

Any such landing, transhipment, caging, harvest, domestic trade, import, export or re-export of bluefin tuna without a completed and validated catch document and, where applicable, a re-export certificate shall be prohibited.

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3 Member States shall not place bluefin tuna into a farm not authorised by a Member State or the CPCs or not listed in the ICCAT record of farming facilities authorised to operate for farming of bluefin tuna caught in the ICCAT Convention area.

4 Farm Member States shall ensure that bluefin tuna catches are placed in separate cages or series of cages and partitioned on the basis of the Member State or CPC of origin.

5 By way of derogation from paragraph 4, farm Member States shall ensure that bluefin tuna caught in the context of a joint fishing operation, as defined by Article 2(g) of Council Regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean[8], are placed in separate cages or series of cages and partitioned on the basis of joint fishing operations.

6 Farm Member States shall ensure that bluefin tuna are harvested from farms in the same year in which they were caught, or before the beginning of the purse seiners fishing period, if harvested in the following year. Where harvesting operations are not completed within that period, farm Member States shall complete and transmit an annual carry-over declaration to the Commission within ten days of the end of that period. That declaration shall include:

— quantities (expressed in kg) and number of fish intended to be carried over,
— year of catch,
— size composition,
— flag Member State or CPC, ICCAT number and name of the catching vessel,
— reference numbers of the catch document corresponding to the catches carried over,
— name and ICCAT number of the fattening facility,
— cage number, and,
— information on harvested quantities (expressed in kg), when completed,

The Commission shall forward such declarations to the ICCAT Secretariat within five days.

7 Quantities carried over in accordance with paragraph 6 shall be placed in separate cages or series of cages in the farm and partitioned on the basis of the catch year.

8 Flag or trap Member States shall provide catch document forms only to their catching vessels and traps authorised to fish bluefin tuna in the ICCAT Convention area, including as by-catch.

9 Each catch document form shall have a unique document identification number. Document numbers shall be specific to the flag or trap Member State and shall be assigned to each catching vessel or trap. Such forms shall not be transferable to another catching vessel or trap.

10 Copies of catch documents shall follow each part of split lots or processed product, using the unique document identification number of the original catch document in order to track them.

11 Domestic trade, import, export and re-export of fish parts other than the meat (i.e. heads, eyes, roes, guts and tails) shall be exempted from the requirements of this Regulation.

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Article 4

Validation

1 Catching vessel masters, trap operators, farm operators, sellers, exporters, or their authorised representatives, shall complete a catch document, if possible electronically, by providing the required information in appropriate sections and shall request its validation in accordance with paragraph 2 on each occasion when they land, transfer, cage, harvest, tranship, domestically trade or export bluefin tuna.

2 The catch document shall be validated by a competent authority of the flag, trap or farm Member State or the Member State where the seller or exporter is established. Member States shall validate the catch document for all bluefin tuna only where:

a a catching vessel flies the flag of the Member State or a trap or farm is established in the Member State that harvested the bluefin tuna,

b all the information contained in the catch document has been established to be accurate as a result of the verification of the lot,

c the accumulated amounts to be validated are within their quotas or catch limits of each management year, including, where appropriate, individual quotas allocated to catching vessels or traps, and

d the bluefin tuna complies with the relevant provisions of the ICCAT conservation and management measures.

3 Validation under paragraph 2 of this Article shall not be required where all the bluefin tuna available for sale are tagged, as referred to in Article 5, by the flag or trap Member State that fished them.

4 Where the bluefin tuna quantities caught and landed are less than 1 tonne or three fish, the fishing logbook or the sales note may be used as a temporary catch document, pending the validation of the catch document within seven days and prior to domestic trade or export.

5 A validated catch document shall include, as appropriate, the information set out in Annex II.

6 A catch document model is set out in Annex III. In cases where a section of the catch document model does not provide sufficient room to completely track movement of bluefin tuna from catch to trade, the relevant information section may be expanded as necessary and attached as an annex. The competent authority of the Member State concerned shall validate the annex as soon as possible, but not later than the next movement of bluefin tuna.

7 Instructions for the issuing, numbering, completion and validation of the catch document are set out in Annex IV.

Article 5

Tagging

1 Member States may require their catching vessels or traps to affix a tag to each bluefin tuna, preferably at the time of kill, but not later than at the time of landing. Tags shall have unique Member State specific numbers and be tamper-proof. The tag numbers shall be linked to the catch document.