

**Proposal for a Council Regulation establishing a tuna tracking and verification system**

(2001/C 304 E/14)

(Text with EEA relevance)

COM(2001) 406 final — 2001/0170(CNS)

(Submitted by the Commission on 30 July 2001)

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

Whereas:

(1) The Community has fishing interests in the eastern Pacific and has started the procedure to accede to the Inter-American Tropical Tuna Commission, hereinafter referred to as the IATTC. In anticipation of its accession to that organisation, and in accordance with its cooperation obligations under the United Nations Convention on the Law of the Sea, the Community has decided to apply the measures adopted by the IATTC.

(2) The Community, through Council Decision 1999/337/EC <sup>(1)</sup>, has signed the Agreement on the International Dolphin Conservation Programme, hereinafter referred to as the AIDCP, and has decided, by means of Council Decision 1999/386/EC <sup>(2)</sup>, to apply it provisionally pending its full approval. The Community must therefore apply the provisions of the Agreement, the Secretariat for which is provided by the IATTC.

(3) In July 1999 the Contracting Parties to the AIDCP decided to establish a system to track and verify tuna caught in the Agreement's area of application, with a view to identifying tuna caught without any risk to dolphins.

(4) As that Decision has become binding on the Parties to the Agreement, the Community is therefore required to implement it as far as Community fishing vessels are concerned.

(5) Supervision of the unloading and transloading of the catch, at port, is the responsibility of each Member State, but it can, by administrative arrangement or agreement, delegate this responsibility to the State where unloading occurs.

(6) Since the measures necessary for the implementation of this Regulation are, variously, management measures and measures of general scope within the meaning of Article 2

of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>, they should be adopted by use, respectively, of the management procedure provided for in Article 4 of that Decision and of the regulatory procedure provided for in Article 5 thereof,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Purpose**

This Regulation lays down the general principles and conditions relating to the Community's application of the tuna tracking and verification system adopted by the parties to the Agreement on the International Dolphin Conservation Programme ('the AIDCP').

*Article 2*

**Scope**

This Regulation shall apply to Community fishing vessels, that is to say, fishing vessels flying the flag of a Member State and registered in the Community, fishing for tuna in the waters of the eastern Pacific as defined in Article 3 of the AIDCP.

This Regulation shall also apply to 'carriers', that is to say, vessels that carry tuna tracked by a tracking form, flying the flag of a Member State and registered in the Community.

*Article 3*

**Definitions**

For the purposes of this Regulation:

1. 'Tuna': means species of the suborder Scombridae, with the exception of the genus *Scomber*;
2. 'Dolphin': means species of the Delphinidae family, associated with yellowfin tuna fishing in the area referred to in Article 2;

<sup>(1)</sup> OJ L 132, 27.5.1999, p. 1.

<sup>(2)</sup> OJ L 147, 12.6.1999, p. 23.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

3. 'Dolphin-safe tuna': means tuna captured in sets in which there is no mortality or serious injury of dolphins;
4. 'Non-dolphin-safe tuna': is tuna captured in sets in which mortality or serious injury of dolphins occurs;
5. 'Observer': is the person assigned to the vessel by the Inter-American Tropical Tuna Commission (IATTC) or the contracting Party's national observer programme to record the vessel's fishing activities;
6. 'Tracking form': is a document presented in accordance with model A in Annex I (dolphin-safe tuna) and model B in Annex II (non-dolphin-safe tuna) hereto;
7. 'Set': is the act of deploying and retrieving the purse seine in order to catch tuna;
8. 'Bin': is any container used to store tuna after unloading, during cold storage or for transport to processing.

#### Article 4

##### Member States' obligations

1. The Member States shall be responsible for tracking and verifying tuna caught, transported and unloaded by vessels flying their flag, and tuna for processing on their territory.
2. The obligation in paragraph 1 shall also apply to tuna unloaded outside the area referred to in Article 2 by vessels operating in that area. In the case of those vessels, the tracking system shall involve confirmation of the weight unloaded.
3. The Member States shall provide the on-board observer with tracking forms for each of the vessels flying their flag and authorised to fish for tuna in the area referred to in Article 2.

#### Article 5

##### Captain's obligations

1. The observer shall classify the tuna caught as 'dolphin-safe' or 'non-dolphin-safe' and, on the basis of this classification, the tuna shall be loaded into prepared holds identified for that purpose.
2. Upon completion of the loading operations, the species and estimated quantity of tuna loaded into each hold, per net, shall be indicated by the observer on the corresponding

tracking form, in consultation with the captain or his representative. The captain or his representative and the observer shall initial each completed tracking form.

3. Transfers of tuna at sea from the net of one fishing vessel to another fishing vessel shall be indicated on the tracking form by the observers of both vessels, specifying the quantity involved, the species and dolphin-safe status of the tuna being transferred.

4. At the end of the fishing trip, the captain and observer shall together review the tracking form, enter any additional comments, and sign it.

5. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure laid down in Article 9(2).

#### Article 6

##### Unloading operations

1. No later than 72 hours before the estimated date of unloading, the vessel captain, the owner or his agent shall notify their national authorities of the dates and places of unloading of all or part of a catch, with a view to its verification.
2. If a fishing trip terminates when the vessel has been unloaded, a new tracking form shall be issued for that vessel for its next fishing trip and any tuna retained on board shall be recorded as the first entry on the new form.
3. If a fishing trip continues after the vessel has been unloaded, the vessel shall retain the original tracking form and a copy, authenticated by the original signatures, shall be sent to the national authorities of the port of unloading.
4. Where tuna is unloaded from one fishing vessel and then loaded aboard a carrier vessel for transport to a processing location, the Flag State of the carrier vessel shall be responsible for obtaining the relevant tuna tracking form, retaining the information on the unloading (including the total weight unloaded if it has been checked), and verifying that the dolphin-safe tuna is kept separate from the non-dolphin-safe tuna during loading and transport. The two kinds of tuna may be stored in the same place during transport, provided that they remain physically separated and the non-dolphin-safe tuna is clearly labelled.

5. If the tuna is unloaded for immediate processing, the Member State where processing takes place shall be responsible for keeping the documentation on unloading and for recording the confirmed weight of the dolphin-safe and non-dolphin-safe tuna. The Member State in question shall use the original tuna tracking form for entering the requisite information into the database and for tracking of the processed tuna, and shall send a copy of this form to the Flag Member State of the vessel that fished the tuna concerned.

6. Unloaded tuna shall be placed in different bins, according to their status as dolphin-safe or otherwise. Each bin shall be identified by the corresponding tuna tracking form number, the status of the tuna and the confirmed weight.

7. Each sale of part of the catch shall be accompanied by the corresponding reference number of the tracking form throughout all stages of processing. Every transfer of the catch shall be notified to the competent authorities of the Member State of unloading and/or processing, specifying the tracking form number, the species and quantity of tuna involved, and the consignee.

8. Where tuna is landed in third-country ports, a copy of the tracking document signed by the observer and captain shall be sent by the captain to the national authorities of the Flag Member State.

9. The Member States may, under specific bilateral agreements, delegate the supervision of unloading and transport to the national authorities of the port involved. That State accordingly becomes responsible for implementing the system in the case of the tuna unloaded and transported on its territory, regardless of the flag of the vessel that caught them.

10. The Commission shall adopt detailed rules for the application of this Article in accordance with the procedure referred to in Article 9(2).

#### Article 7

##### **Data transmission**

1. For the implementation of this tuna tracking and verification system, the Member States shall create a computer database to which the Commission shall have computerised access.

2. Within 10 days of receipt of a tuna tracking form, the Member States shall send one copy, signed by the observer and captain, to the AIDCP Secretariat, and a copy to the Commission.

3. Before 1 May each year, Member States shall send a report of their implementation of the tuna tracking and verification system to the Commission, which shall send a report on this basis to the AIDCP Secretariat before each annual meeting.

4. The Member States shall send the Commission the names and exact addresses of the officials responsible for implementing the tuna tracking and verification system.

5. The Commission shall send the AIDCP Secretariat the names and exact addresses of the Commission officials in charge of implementing the tuna tracking and verification system.

#### Article 8

##### **Amendment of Annexes**

Annexes I and II may be amended in accordance with the procedure referred to in Article 9(3), so as to reflect the AIDCP conservation measures binding the Community.

#### Article 9

##### **Committee**

1. The Commission shall be assisted by the Committee established by Article 17 of Council Regulation (EEC) No 3760/92<sup>(1)</sup>.

2. Where reference is made to this paragraph, the management procedure laid down in Article 4 of Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.

3. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7 thereof.

4. The period provided for in Article 4(3) and Article 5(6) of Decision 1999/468/EC shall be three months.

#### Article 10

##### **Entry into force**

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

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

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<sup>(1)</sup> OJ L 389, 31.12.1992, p. 1.













