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L.N. 112 of 2023

**FISHERIES CONSERVATION AND MANAGEMENT ACT
(CAP. 425)**

Exports and Trade of Bluefin Tuna Regulations, 2023

IN EXERCISE of the powers conferred by article 38 of the Fisheries Conservation and Management Act, the Minister responsible for fisheries has made the following regulations:-

Citation, scope
and
commencement.

1. (1) The title of these regulations is the Exports and Trade of Bluefin Tuna Regulations, 2023.

(2) The scope of these regulations is to regulate bluefin tuna trade activities under Maltese jurisdiction, and the processes governing the commercialisation related thereto as provided in these regulations, as well as to promote the legitimate trading and possession of bluefin tuna with respect towards the sustainability of the bluefin tuna fisheries, in compliance with European Union law and other binding international law obligations.

(3) Save as otherwise provided, the Director responsible for fisheries shall be responsible for all the purposes of these regulations.

(4) These regulations shall come into force within two (2) months from their publication in the Gazette.

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

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"Act" means the Fisheries Conservation and Management Act;

"BCD" or "electronic BCD (eBCD)" means a bluefin catch document in a form as required and, or approved by the Director;

"Director" means the Director responsible for fisheries;

"export" means the movement of bluefin tuna in whole or processed from Malta to another ICCAT contracting party or non-ICCAT contracting party;

"ICCAT" means the International Commission for the Conservation of Atlantic Tunas;

"ICCAT Recommendation 21-08" means the

Recommendation by ICCAT amending the Recommendation 19-04 amending recommendation 18-02 establishing a multi-annual conservation and management plan for bluefin tuna in the eastern Atlantic and the Mediterranean, as in force and, or replaced from time to time;

"imports" means the introduction of bluefin tuna in whole or processed in Malta from other ICCAT Contracting Parties;

"international law" includes international law as generally understood and any recommendations, resolutions or decisions by RFMOs as in force from time to time and binding on the European Union and, or Malta or operators under its jurisdiction;

"Minister" means the Minister responsible for fisheries;

"RFMO" means a Regional Fisheries Management Organisation recognised by the European Union or at international law, and also includes international organisations having an interest in fisheries and, or aquaculture, including but not limited to the General Fisheries Commission for the Mediterranean, or GFCM, and the International Commission for the Conservation of Atlantic Tunas, or ICCAT, as well as any other such organisation as the Minister may prescribe by a Government Notice in the Gazette;

"tuna", "bluefin tuna" or "BFT" refers to the fish species known by the scientific name of *Thunnus thynnus*.

(2) Save as otherwise provided in these regulations, the definitions provided for in the Act shall apply to these regulations.

3. (1) Without prejudice to any other function, responsibility and power in accordance with the Act or any other law, as well as any other function provided in these regulations, the functions of the Director shall in particular include those listed under sub-regulations (2) to (5).

Functions of the Director.

(2) The Director shall:

(a) prescribe such declarations, forms and additional procedures as he may deem necessary or expedient to comply with the obligations according to these regulations, and particularly so when these are required by international law and, or by RFMOs;

(b) take action, as necessary or expedient, towards the fulfilment of all the provisions of these regulations and for doing

so he may, without prejudice to the generality of the foregoing and any other power or responsibility according to law:

(i) require the provision of any information, document, object or copy thereof from any person and, or operator as he may deem relevant or expedient to fulfil the provisions of these regulations;

(ii) order the temporary cessation of any activity regulated by these regulations or having an effect thereon;

(iii) suspend or revoke any authorisation issued according to these regulations;

(iv) seize, store and, or destroy any fish, tool, gear or other object as he may order and in doing so he may charge the expenses against the operator concerned;

(v) exercise all powers as are vested in him according to the Act *mutatis mutandis* for the purposes of these regulations:

Provided that any expenses related to the seizure, including the expenses due for the haulage of the merchandise, transportation and storage of the seized fish, shall be charged against the operator and such expenses shall be considered as civil debt and an executive title at law and particularly so for the purposes of the Code of Organization and Civil Procedure.

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(3) Without prejudice to any other function, responsibility and power in accordance with the Act or any other law, the Director is hereby empowered to act towards the fulfilment of any obligation, commitment or objective binding on Malta and, or on operators under Maltese jurisdiction, as applicable according to European Union law and, or international law, in relation to the bluefin tuna aquaculture sector:

Provided that in fulfilment of this sub-regulation and all his responsibilities under these regulations, the Director shall consider the provisions of ICCAT Recommendation 21-08 as in force and, or as subsequently amended or substituted from time to time:

Provided further that without prejudice to the generality of this sub-regulation, the Director shall be competent for the aforesaid fulfilment and any specific power to be exercised by Malta or which could be exercised at Malta's discretion shall be deemed to vest in the Director without the need of any further ratification or enactment.

(4) Without prejudice to sub-regulation (3), the Director may publish a list of particular applicable instruments in accordance with European Union law and, or international law by means of a Government Notice published in the Gazette, exclusively so as to draw the particular attention of operators on certain applicable obligations according to the same instruments:

Provided that without prejudice to sub-regulation (3) and any other law, the publication as referred in this sub-regulation shall lead to a *juris et de jure* presumption that the legal instruments listed are enforceable in Malta by the Director.

(5) The Director may also:

(a) communicate information related to the BFT trade operations whether to third countries or to European Union institutions, Member States or international bodies when the Director deems it fit in the interest of the same sector, or in the interest of the sustainability, control, enforcement or management thereof;

(b) delegate the exercise of any of his responsibilities and, or powers according to these regulations to such persons as he may designate and according to such conditions as he may deem fit;

(c) without prejudice to any other law and when not specifically provided for in these regulations, order the seizure in part or in whole BFT as may be held by any person, when such seizure is necessary or adequate to fulfil any obligation in accordance with these regulations and particularly so with respect to obligations referred to under sub-regulation (3).

(6) The Director or his delegates shall order and carry out inspections at packing points according to randomly chosen patterns:

Provided that operators are bound to make the identified premises available to the relevant officers whenever inspections may be ordered by the Director.

(7) Anything done by the Director or his delegates according to this regulation, save if it was expressly indicated otherwise, shall be binding at law on all operators concerned.

4. Without prejudice to any other provision of these regulations or any other law, the following shall be prohibited: Prohibitions.

(a) any trading of bluefin tuna caught, transhipped,

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farmed or landed by vessels and, or persons who are not licensed and, or authorised according to applicable law, including bluefin tuna from aquaculture establishments;

(b) any obstruction, intimidation, interference with, influence of, bribing of or attempt to bribe a fisheries protection officer;

(c) any consignment of Atlantic and Mediterranean bluefin tuna domestically traded, landed, exported, offered for sale, imported into or re-exported from Malta not accompanied by a completed and validated eBCD or a sales voucher traceable to a validated eBCD as required by these regulations.

Fisheries
protection
officers.

5. (1) The operators shall be obliged to accept on board their transport vehicles and, or into their establishments those fisheries protection officers or other officers as the Director may require according to regulation 3, and said acceptance shall include reasonable collaboration by the operators to allow and facilitate the fulfilment of the roles of said officers:

Provided that sub-regulation (1) shall *mutatis mutandis* apply in relation to operators for any obligation directly affecting them, Malta and, or the European Union as applicable to the role of officers according to European Union law or international law as defined under regulation 2.

(2) Without prejudice to their other responsibilities and powers at law, fisheries protection officers may inspect aquaculture establishments to ensure compliance with these regulations and international law as defined in regulation 2.

Identification
and
documentation
requirements.

6. (1) Each consignment of bluefin tuna domestically traded, imported into or exported from Malta shall be accompanied by a validated eBCD.

(2) Domestic trade, export, import and re-export of fish parts other than meat, including heads, eyes, roes, guts and tails, shall be exempted from the requirements of sub-regulations (1) and (8).

(3) Any trading of bluefin tuna in whole, gilled, gutted, or dressed form, or in any other form of presentation, and originating from Maltese operators, including any vessel and, or aquaculture establishment, when landed as natural mortalities from bluefin tuna aquaculture establishments or for fresh trade from bluefin tuna aquaculture establishments, shall be accompanied by identification tags:

Provided that this sub-regulation shall not apply in cases of harvesting by aquaculture establishments on reefer vessels or aquaculture establishment vessels other than natural mortalities of bluefin tuna within farming cages.

(4) All bluefin tuna landings, irrespective of their origin, shall be notified to the Director at least four (4) hours prior to the time of landing:

Provided that the Director may accept a shorter time period if the fishing grounds or aquaculture establishment of origin is less than four (4) hours away from the landing grounds.

(5) The operators trading bluefin tuna originating from landings of Maltese authorised fishing vessels are to submit to the Director the following set of documents, as applicable, immediately after the landing operation and at least two (2) hours before the actual export or trade operation:

(a) a copy of the landing sheet and fishing logbook of the vessel which landed the bluefin tuna;

(b) the accompanying proof of purchase, such as sales vouchers or sales notes;

(c) a duly filled transport document showing the details and headings as required in the Schedule;

(d) the air waybill in the event that the product is being transported by air freight; and, or

(e) any other document that the Director may specifically require.

(6) Following the registration and validation of the catch and the first trade in the eBCD system, the registration of information on subsequent trades of bluefin tuna traded as Gilled and Gutted (GG) and, or Dressed (DR) that is marketed up to the local trade of the BFT between retailers and prior to the sale to consumers shall also be reported within the eBCD system.

(7) All further domestic trades of bluefin tuna after the second trade shall be traceable to a validated eBCD by means of a sales invoice clearly indicating the origin of the bluefin tuna being offered for sale.

(8) All exports and trades shall be registered and validated in the eBCD prior to the departure of bluefin tuna and tuna products from

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Malta.

Registration of
buyer within the
eBCD system.

7. (1) Any person operating under Maltese jurisdiction involved in the trading of bluefin tuna shall ensure that they have notified the Director of his involvement so as to be validly registered in the ICCAT eBCD system.

(2) The Maltese operators trading in bluefin tuna shall ensure that any foreign operator receiving the bluefin tuna at the relevant destination is also registered in the eBCD system.

(3) The Director shall not validate or authorise any trade from sellers or to buyers that are not registered within the eBCD system.

Market
measures.

8. (1) It shall be prohibited to trade, export, or offer for sale bluefin tuna which is not accompanied by the documentation required by these regulations or which is otherwise contrary to the provisions of these regulations.

(2) It shall also be prohibited to possess bluefin tuna unless acquired for final consumption in the context of a legitimate trade, or unless it is caught in exercise of legitimate recreational fisheries and without intent to trade.

Offences.

9. Any person who violates a provision of these regulations, including the failure to comply with any obligation thereof, or failure to comply with the orders, requirements or instructions of the Director shall be guilty of an offence and shall be sanctioned according to the Offences, Proceedings and Sanctioning (Fisheries and Aquaculture) Regulations.

S.L. 425.17.

SCHEDULE
(regulation 6(5)(c))

TRANSPORT DOCUMENT

EXPORTER DETAILS

Name

Address

BLUEFIN TUNA (BFT) EXPORT

Air waybill Number / Ferry Route Code

Export Point

Export Date

Estimated Export Time at Export Point

Transport Vehicle Registration Number (if applicable)

Flight / Voyage Number (if applicable)

Full address of Consignee

Product Presentation

Consignment Weight

Company Signature

Date

**DEPARTMENT OF FISHERIES AND AQUACULTURE
AUTHORISATION**

Date

Attached BCDs

Signature of Officer

Title of Officer

*BCDs declared within this document shall accompany this
consignment*

