

L.N. 218 of 2022

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

Bluefin Tuna Aquaculture Regulations, 2022

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, applicability and commencement.

1. (1) The title of these regulations is the Bluefin Tuna Aquaculture Regulations, 2022.

(2) The scope of these regulations is to regulate bluefin tuna aquaculture activities, as well as those fisheries and commercialization activities related thereto as provided in these regulations, and to promote the sustainable operation of the bluefin tuna aquaculture industry with respect to 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 shall be responsible for all the purposes of these regulations.

(4) These regulations shall come into force on such date as the Minister responsible for fisheries may, by notice in the Gazette, establish, and different dates may be so established for different provisions and different purposes of the regulations.

Interpretation.

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

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"Act" means the Fisheries Conservation and Management Act;

"aquaculture" means the rearing and cultivation of fish by virtue of the use of technical means set up in order to increase the production of the organisms concerned beyond their natural environmental capacity, where the organisms remain property of the natural or legal person operating the aquaculture establishment throughout the period of rearing and cultivation, up to and including the harvesting thereof;

"auxiliary vessel" means any vessel used to transport unprocessed dead bluefin tuna from any sort of cage, or from a purse seine vessel or a trap to a designated port and, or to a processing

vessel;

"average eBCD caging weight" means total weight divided by the total number of individual BFT in a particular cage as recorded in the caging section within individual eBCDs;

"average harvest weight" means the total live weight of the fish harvested per cage divided by the total number of individual BFT as recorded during the harvesting process;

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

"caging" means the relocation of live bluefin tuna from the transport cage or trap to the aquaculture cages;

"catching vessel" means a fishing vessel used for the purposes of the commercial capture of bluefin tuna resources;

"control camera" means a stereoscopic camera and, or conventional video camera for the purpose of the controls prescribed by these regulations;

"control transfer" means any additional transfer being implemented at the request of an operator or upon order by the Director, for the purpose of verifying the number of bluefin tuna in a towing or aquaculture cage;

"donor operator" means the master of the catching or the towing vessel or its representative, or the representative of an aquaculture establishment or a trap, from which a transfer operation is originated;

"fattening" or "farming" means caging of bluefin tuna in aquaculture establishments and subsequent feeding aiming to fatten and increase their total biomass;

"fishing vessel" shall have the same meaning as assigned to it in the Act, and without prejudice thereto it shall also include any powered vessel used for the purposes of the commercial exploitation of bluefin tuna resources, including catching vessels, fish processing vessels, support vessels, towing vessels, vessels engaged in transshipment and transport vessels equipped for the transportation of tuna products and auxiliary vessels, except container vessels;

"further transfer" means any transfer operation that is conducted after the first transfer from a catching vessel's net or a trap and before caging at the destination aquaculture establishment;

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"harvesting" means the killing of bluefin tuna in aquaculture establishment or traps;

"HRV" means the Harvest Raised Value as calculated according to regulation 18;

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

"ICCAT Recommendation 19-04" means the Recommendation by ICCAT amending the Recommendation 18-02 establishing a multi-annual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean;

"ICCAT SCRS" means the Standing Committee on Research and Statistics of ICCAT;

"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;

"ITD" means ICCAT Transfer Declaration, and is the relevant transfer declaration as required by ICCAT for the relevant activities;

"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;

"purse seine" means a surrounding net the bottom of which is drawn together by means of a purse line at the bottom of the net, which passes through a series of rings along the ground rope, enabling the net to be pursed and closed;

"purse seiner" means a fishing vessel making use of a purse seine;

"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 notice in the Gazette;

"Random controls" means those controls carried out on aquaculture establishments according to regulation 20;

"stereoscopic camera" means a camera with two or more lenses, with a separate image sensor or film frame for each lens, enabling the taking of three-dimensional images for the purpose of measuring the length of the fish and assisting in attaining greater precision in the number and weight of bluefin tuna;

"transfer operations" includes any transfer of live bluefin tuna from the catching vessel's net to the transport cage; any transfer of live bluefin tuna from the trap to the transport cage, independently of the presence of a towing vessel; any transfer of live bluefin tuna from the transport cage to another transport cage; any transfer of a cage containing live bluefin tuna from a towing vessel to another towing vessel; any transfer of live bluefin tuna from one aquaculture establishment to another, or between different cages in the same aquaculture establishment and any transfer of live bluefin tuna from a farming cage to a transport cage;

"towing vessel" means any authorised vessel used for towing cages with or without bluefin tuna;

"transshipment" means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel. However, unloading of dead bluefin tuna from the purse seiner net, the trap or the towing vessel to an auxiliary vessel shall not be considered as transshipment;

"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 or farming;

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

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

3. (1) Without prejudice to any other function, responsibility and power under 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) ensure that all communications required by Malta under European Union law or international law in relation to the BFT aquaculture sector are communicated;

(b) order the release of live BFT from an aquaculture

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establishment upon receiving a request from a foreign competent authority which is declared to be final and definitive, or is according to applicable European Union law or international law;

(c) engage national observers to act as required according to European Union law and, or international law, as well as according to any other requirements as the Director may deem fit to impose in relation to such engagements, and ensure that operators do all that may be reasonable to ensure that national observers are allowed to fulfil their role;

(d) ensure that operators do all that may be reasonable to ensure that regional observers fulfil their role according to European Union law, and or international law, and for so doing he may issue such orders towards operators as the Director may deem fit;

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

(f) order and execute the transfer of any live BFT from any aquaculture establishment and, or cage to another cage for control and monitoring purposes and according to such conditions that he may so order;

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

(3) Without prejudice to any other function, responsibility and power under 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, 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 under European Union law and, or international law by means of a Government notification, 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, 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 aquaculture sector to European Union 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) impose specific requirements on the roles of national observers which are to be observed by the same observers and, or operators accordingly:

(c) 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

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deem fit:

(d) without prejudice to any other law and when not specifically provided for under these regulations, order the release of any number of live BFT as may be held by any operator, when such release is necessary or adequate to fulfil any obligation under these regulations and particularly so with respect to obligations referred to under sub-regulation (3).

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

Prohibitions.

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

(a) any aquaculture activity involving BFT caught, transhipped or towed by vessels and, or operators who are not licensed and, or authorised according to applicable law, including but not limited to aquaculture activity involving:

(i) any chartering of vessels in relation to BFT fisheries or the involvement of chartered vessels in BFT fisheries;

(ii) any fishing by purse seine between the 2nd July of each year and the 25th May of the following year:

Provided that if weather conditions prevented fishing operations, the Director may derogate from this prohibition for a period of not more than ten (10) days starting from the 2nd July and ending on the 11th July at the latest:

Provided further that the referred derogation shall only be possible following a lack of objection from the European Commission.

(b) any aquaculture activities, including feeding for fattening purposes or the harvesting of bluefin tuna, outside of the geographical coordinates approved by the Director for the aquaculture establishment;

(c) any obstruction, intimidation, interference with, influence of, bribing of or attempt to bribe a national observer or a regional observer;

(d) any violation of the provisions of regulation 5;

(e) any aquaculture activity, or any activity related

thereto, done in violation of international law as defined according to regulation 2;

(f) without prejudice to any instructions given according to regulation 14(2), any transshipment of BFT when done outside ports designated for such purposes by the Director.

5. (1) Operators shall be obliged to accept on board their vessels and, or into their establishments those national and, or regional observers 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 observers:

Observers and fisheries protection officers.

Provided that this sub-regulation 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 observers according to European Union law or international law as defined under regulation 2:

Provided further that the presence of ICCAT regional observers shall in particular be required on every purse seine vessel authorised to fish for bluefin tuna, during all transfers of bluefin tuna from purse seine vessels to transport cages, during all transfers of bluefin tuna from one aquaculture establishment to another, during all cagings of bluefin tuna in an aquaculture establishment, during all harvesting of bluefin tuna from aquaculture establishment, and during the release of bluefin tuna from an aquaculture establishment, or as otherwise required under European Union law or international law.

(2) The provisions of sub-regulation (1) shall apply to aquaculture establishments and to vessels the activities of which relate to BFT intended or related to the aquaculture activities of aquaculture establishments and no relevant activity may be performed failing compliance with the provisions of sub-regulation (1).

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

6. (1) Any transshipment of BFT must:

Transshipment.

(a) take place at a port designated for such a purposes by the Director, and subject to a specific authorisation for each transshipment;

(b) be subject to a seventy-two (72) hour prior notice by a representative of the vessel concerned;

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(c) be subject to the provision of any documents and information required by the Director, in particular documents and information required according to international law and European Union law.

(2) The Director shall not authorise any transshipment unless the competent authority of the flag of the vessel provides its own authorisation for the transshipment.

(3) The Director may issue a transshipment authorisation according to this regulation if he is satisfied that the provisions of sub-regulations (1) and (2) have been met by the concerned operators.

Bluefin tuna
towing and
transfers at sea.

7. (1) The master of a towing vessel shall ensure the towing vessel is:

(a) equipped with a fully operational VMS at all times during its activity as a towing vessel;

(b) capable of transmitting VMS data to the ICCAT Secretariat at least five (5) days before and continue at least 5 days after its period of operation, as may be authorised by the Director or the competent authority of a foreign State;

(c) transmitting VMS data without interruption when the vessel is in port, unless there is a system of hailing in and out of port;

(d) in the event of a technical failure of its VMS, equipped with a fully functional VMS at the earliest, except in cases of *force majeure* as communicated to the Director and the ICCAT Secretariat:

Provided that upon such failure and every four (4) hours, the master or his representative shall communicate to the Director the up-to-date geographical coordinates of the towing vessel by appropriate telecommunication means; and

(e) at a minimum distance of 0.5 nautical miles, or at such other distance as may be ordered by the Director, from an aquaculture establishment when carrying a transport cage and until fisheries protection officers are present on site.

(2) Any transfer of bluefin tuna in cages shall be subject to a prior notification sent to the Director, including, as applicable:

(a) the number and the estimated weight of bluefin tuna to be transferred;

(b) the name of the relevant catching vessel, towing vessel, aquaculture establishment or trap, and their respective ICCAT number record;

(c) the date and the location of the catch;

(d) the estimated position indicating latitude and longitude where the transfer will take place;

(e) the donor and, or receiving aquaculture establishment and the relevant aquaculture cages; and

(f) any other information as requested by the Director.

(3) Any person responsible for transfer operations and associated transports shall ensure that at all times any cages used for such activities are numbered, in a visible and legible manner, in accordance with a unique numbering system that includes the letters EU.MLT, followed by three numbers, and a code established by the Director for the particular operator, as may be required by the Director:

Provided that if the relevant operator is not registered in Malta, the applicable letters shall be those identified by the foreign competent authority.

(4) Each transfer operation shall require a transfer authorisation as may be issued by the Director or by a foreign competent authority, as applicable:

Provided that a transfer authorisation shall not be issued if the transfer operation is not conducted according to these regulations.

(5) The transfer authorisations referred in sub-regulation (4) shall be numbered with MLT, followed by four numbers for the year and three letters to indicate either positive (AUT) or negative (NEG) authorisation, followed by the applicable sequential numbers:

Provided that if the relevant transfer does not fall within the competence of Malta, the applicable letters shall be those identified according to the foreign competent authority.

(6) The separation of the transport cage from a purse seine or a trap shall not occur before the transport operation concerned is completed according to sub-regulation (7) and, if applicable, the ICCAT regional observer has completed his tasks.

(7) A transfer operation shall be considered completed when:

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(a) the ITD and the relevant video record are transmitted to the master of the receiving towing vessel and to the ICCAT regional observer or the national observer, as applicable;

(b) a copy of the ITD has been sent to the Director or the competent authority of the donor operator, as applicable; and

(c) the transfer section of the eBCD, when applicable, has been completed by the donor operator.

Video monitoring and recordings (in transfers at sea).

8. (1) Donor operators shall ensure that transfer operations are at all times monitored and recorded by conventional video camera in the water, according to such minimum standards and procedures as the Director may order.

(2) In any case following the first transfer from a purse seiner to a towing cage, the donor operator shall deliver copies of the conventional video camera recordings referred in sub-regulation (1) without delay:

(a) at the end of any first transfer operation from the catching vessel or trap, to the ICCAT regional observer of the catching vessel and the national observer of the receiving towing vessel and, on termination of the fishing trip, to the Director or the competent authority of the flag State of the donor towing vessel or trap, and to the competent authorities of the farming flag;

(b) at the end of any subsequent transfer operation between towing vessels, to the national observer on board the donor towing vessel, and to the master of the receiving towing vessel and, at the end of the towing trip, to the Director or to the competent authority of the flag State of the donor towing vessel and to the competent authorities of the farming flag;

(c) at the end of any subsequent transfer operation between two different aquaculture establishments, to the ICCAT regional observer, to the receiving towing vessel, and to the Director or to the competent authority of the state of registration of the receiving aquaculture establishment.

(3) Copies of video recordings according to sub-regulation (1) shall be kept on board the vessel or trap for the duration of the BFT fishing season.

(4) Whenever an operator is registered in Malta, the Director shall retain a copy of video recordings recorded according to this regulation for at least three (3) years:

Provided that the retention period may be longer if the data concerned is necessary for control and enforcement purposes as may be deemed necessary by the Director or any other competent authority.

9. (1) Video recordings according to regulation 8 shall serve so as to determine the number of fish being transferred:

Action on video recordings (in transfers at sea).

Provided that this regulation shall not apply to transfers of cages from a towing vessel to another towing vessel unless specifically ordered by the Director:

Provided further that if the Director deems that the quality and clarity of the video recordings referred in regulation 8 are not sufficient to determine the number of fish being transferred, the donor operator may conduct a voluntary transfer of as much fish as necessary so as to allow for said determination.

(2) If no voluntary transfer has been effected according to sub-regulation (1) or if the Director deems that the same voluntary transfer is not sufficient to allow for the determination of the number of fish being transferred, the Director shall order that a control transfer be made:

Provided that this sub-regulation is subject to the provisions of sub-regulation (4).

(3) Transfers according to this regulation shall always be recorded by control camera in the manner which may be ordered by the Director.

(4) A maximum of three (3) transfer attempts are allowed so as to ensure compliance with sub-regulation (1), following which the Director shall order the separation of the donor purse seine vessel, trap or aquaculture establishment from the transport cage, and may order that the transport cage concerned be sealed so as to be able to perform a subsequent controlled transfer at a time and place determined by the Director:

Provided that the subsequent control transfer according to this sub-regulation shall in all cases be conducted in the presence of an ICCAT regional observer, or fisheries protection officers or officers from competent authorities of the catching or farming flag.

(5) The sealing of the cages according to sub-regulation (4) shall be specifically recorded by video by the donor operator and copies thereof shall be provided according to regulation 8(2):

Provided that if a control transfer is ordered according to

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sub-regulation (2), and the cages are sealed, the video recording of a subsequent control transfer according to this regulation shall start with the unsealing operation, in such a way as to allow the identification of the seals and to verify that the seals have not been tampered with:

Provided further that a copy of the video recording of any sealing operation shall be provided by the donor operator to the ICCAT regional observer on board the purse seine vessel or the trap, and to the receiving towing vessel, so that it may be transmitted to the Director and, or to the competent authority at a subsequent control transfer, as applicable according to these regulations.

(6) The number of fish determined according to this regulation shall be used by the donor operator to complete the logbook, the ITD and the relevant sections of the eBCD.

(7) For all transfer operations where a video is required according to these regulations, a difference equal to or greater than ten per cent, between the number of BFT reported by the donor operator in the ITD and the number determined by the Director or the competent authority of the donor operator, shall require an investigation by the Director and following its findings the Director may order such measures as may be necessary and proportionate to rectify the situation.

Transfer
declarations.

10. (1) Donor operators shall complete an ITD according to applicable ICCAT requirements, and they shall transmit a copy of the same without delay to the Director or the relevant foreign competent authority, to the ICCAT regional observer whenever the presence of the latter is required and, as applicable, to the master of the towing vessel or to the aquaculture establishment receiving the BFT.

(2) The ITD shall accompany the BFT transferred up to the aquaculture establishment where it will be caged:

Provided that upon the first transfer, the original of the ITD shall be duplicated by the donor operator when a single catch is transferred from the purse seine net or the trap to more than one transport cage:

Provided further that in the case of a further transfer, the master of the donor towing vessel shall update the ITD according to ICCAT requirements, and hand over a copy of the updated ITD to the receiving towing vessel.

(3) A copy of the ITD shall be kept by all operators involved with the BFT concerned and be accessible at any time for control purposes during the duration of the relevant fishing campaign.

(4) The Director shall ensure that the ITD is appropriately completed and numbered using the three letters MLT or another applicable designation, followed by the four numbers showing the year and three sequential numbers, followed by the three letters ITD.

(5) The Director shall be competent to decide whether the ITD complies with the ICCAT requirements referred in this regulation and also to identify the applicable ICCAT requirements.

11. (1) All cagings of BFT in aquaculture establishments shall be subject to a specific authorisation by the Director, issued on the request of the aquaculture establishment operator, in accordance with this regulation: Bluefin tuna caging.

Provided that the Director shall not authorise any such caging if any investigation is ongoing according to these regulations, or if any requirement of these regulations or of any applicable RFMO is not satisfied.

(2) Any authorisation according to sub-regulation (1) requires a written request by the establishment operator which:

(a) specifies the number and weight of the BFT to be caged:

Provided that said number and weight shall coincide with that in the relevant ITD;

(b) specifies the relevant eBCD reference of the BFT to be caged, as confirmed and validated by the Director or the competent authority of the catching vessel or trap; and

(c) is accompanied by the relevant ITD:

Provided that the Director may require such information or documentation as he may deem necessary to authorise any required caging:

Provided further that the Director may refuse any request for authorisation if it fails to fully and correctly provide any information and, or document required under this sub-regulation.

(3) The Director may refuse an authorisation according to this regulation if the competent authorities of the catching vessel or trap do not provide him their own authorisation to the caging.

(4) No caging operation may take place in the absence of an ICCAT regional observer.

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(5) All BFT shall be caged before the 22nd August of each year:

Provided that for valid reasons, including *force majeure*, determined according to applicable international law and Maltese law, the Director may grant caging authorisations for the period between the 22nd August and the 7th September, both dates included.

(6) Aquaculture establishment operators shall submit to the Director a caging declaration for each caging operation, by such date and time and according to such forms as the Director may prescribe.

(7) Transfer of BFT from one cage to another in the same aquaculture establishment shall require a specific authorisation by the Director and, if so authorised, the presence of fisheries protection officers prior to and during the transfer taking place:

Provided that such transfer shall be monitored by stereoscopic and, or conventional video cameras as the Director may instruct:

Provided further that any transfer according to this sub-regulation shall be recorded in the eBCD system.

(8) The Director may order any operator to release any amount of live BFT from cages involved in the transfer operation to the aquaculture establishment, so as to resolve any discrepancy in the amount of BFT involved and, or so as to comply with any provision of these regulations or obligations referred under regulation 3(3).

Bluefin tuna
cages.

12. (1) All cages referred in this regulation and used by Maltese operators, shall be numbered in a visible and legible manner, in accordance with a unique numbering system that includes the letters EU.MLT, followed by three numbers, and a code established by the Director for the particular operator, as may be instructed the Director.

(2) The operators of aquaculture establishments shall cage specific BFT catches in separate and distinct cages according to the origin of the BFT, as may be directed by the Director in his authorisation according to regulation 10.

(3) The operators of aquaculture establishments shall ensure that they have accurate schematic plans of their aquaculture establishments, including the number of all cages and their accurate positioning, and such plans shall be accessible and provided to the Director at all times and as may be requested.

(4) Aquaculture establishments shall at all times conform to

their schematic plans according to sub-regulation (4):

Provided that any variance from the schematic plans is prohibited unless authorised by the Director.

(5) The cages of aquaculture establishments shall be sealed by fisheries protection officers or as may be instructed by the Director, and may only be unsealed in the presence of fisheries protection officers, as may be authorised by the Director.

13. The Director shall retain a copy of all the information, documents, video recordings, and other material related to caging activities as relating to aquaculture establishments for at least three(3) years: Caging records.

Provided that the retention period may be longer if the data concerned is necessary for control and enforcement purposes, as deemed necessary by the Director or any other competent authority.

14. (1) Aquaculture establishment operators shall ensure that each caging operation is monitored and recorded by using stereoscopic cameras, according to such minimum standards and procedures as the Director may order: Video monitoring and recordings (aquaculture establishment).

Provided that the provisions of this regulations are without prejudice to the use of conventional video cameras to support the verification of the number of BFT involved.

(2) The Director and the ICCAT regional observer shall have immediate access to the stereoscopic camera footage, and may request and obtain copies thereof.

15. (1) The Director shall determine the number and weight of BFT being caged by analysing the video footage provided by the aquaculture establishment operator. Action on video recordings (aquaculture establishment).

(2) If the Director deems that the quality and clarity of the video recordings referred in regulation 13 are not sufficient to determine the number and, or weight of BFT being caged, the aquaculture establishment operator shall repeat the caging according to these regulations, until the determination of the number and weight is possible, as may be confirmed by the Director:

Provided that operations done according to this regulation shall not require a further caging authorisation when this had already been granted according to regulation 10.

(3) In all operations according to sub-regulation (1), the donor

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cage shall be blocked to avoid any form of abuse prior to the repeated caging operation, and the receiving cage shall be empty.

(4) If the Director finds a discrepancy of more than ten per cent between the number and, or the weight determined according to sub-regulation (1) and the declarations made according to regulation 10(2)(a), the Director shall investigate the matter:

Reporting of
BFT mortalities.

16. (1) Any mortalities occurring during towing operations shall be declared in the towing vessel logbook and in any format as may be requested by the Director.

(2) All BFT that dies during caging operations shall be reported to the Director by the aquaculture establishment operator, as the Director may require.

(3) All BFT that dies while in farming cages after the respective caging operation shall be reported to the Director by the aquaculture establishment operator, as the Director may require.

(4) Without prejudice to any other power and responsibility pertaining to any other competent authority in Malta, the Director may give instructions to the operators of vessels and, or aquaculture establishments in relation to the transportation, treatment and disposal of dead BFT.

Harvesting
operations
authorisation.

17. (1) Harvesting of BFT held in an aquaculture establishment shall require a prior authorisation by the Director, upon a request by the aquaculture establishment operator:

Provided that no harvesting shall be authorised if any investigation or release is pending according to these regulations or according to international law as may be determined by the Director:

Provided further that the Director may authorise the validation of related eBCDs for slaughtered BFT which are close to dying, so however that the trading of such slaughtered BFT is prohibited until the caging section of the relevant eBCD is validated by the Director.

(2) The Director may prescribe conditions applicable for any authorisation granted according to this regulation:

Provided that compliance with said conditions shall be necessary for the validity of the relevant authorisation.

BFT weighing
at harvesting.

18. (1) All BFT involved in the harvesting operations shall be weighed according to this regulation.

(2) The Director shall calculate the average eBCD caging weight at caging referred according to Annex 9 of the ICCAT Recommendation 19-04 or according to any other ICCAT instruments providing measures and programmes to estimate the number and weight of bluefin tuna to be caged.

(3) The Director shall maintain a monitoring database for the purpose of monitoring and forecasting the average harvest weight of BFT at harvesting and to estimate the acceptable final HRV per cage:

Provided that any forecasts indicating discrepancies in the acceptable final HRV per cage shall be investigated, and in the case of any forecasted excesses, the Director may order the release of an equivalent amount of BFT into the sea.

(4) For the purposes of validating the harvesting sections of eBCDs according to sub-regulation (5), the Director shall calculate the HRV by raising up this value by the growth factor for bluefin tuna as established from time to time by the ICCAT SCRS or any other growth factor and, or margin of error as may be prescribed by the Director and, or international law.

(5) After applying the provisions of sub-regulations (1) to (4), the Director shall validate the harvesting sections of eBCD only if:

(a) the number of individual BFT declared in the respective eBCD are equivalent to the number of individual BFT verified by the fisheries protection officer at the harvesting operation;

(b) the number of individual BFT declared in the respective eBCD is in line with the cumulative balance as provided by a monitoring database administered by the Director for the purpose of these regulations; and

(c) the weight harvested as declared in the respective eBCD is within the acceptable value of the HRV as provided by said monitoring database.

(6) Failing validation according to sub-regulation (5), and if the weight of the BFT is in excess of the acceptable value of the HRV, the Director shall seize the excess BFT in weight:

Provided that the Director may, at any time prior to the actual harvesting, order the release of live BFT equivalent to any said excess:

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Provided further that should any excess result following the actual harvesting, any expenses related to the seizure, inclusive of expenses due for the haulage, transportation and storage of the seized fish, shall be charged against the operator of the aquaculture establishment 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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Carry over of
BFT from
previous years.

19. Carry-over of live BFT from one year to another shall be allowed provided that all carry-over operations are authorised by the Director following a request in writing by the operator of the aquaculture establishment:

Provided that such carry-overs shall be monitored and recorded with the use of stereoscopic cameras and, or conventional video cameras as the Director may require, and for so doing the provisions of regulation 14 shall apply *mutatis mutandis* as the Director may require:

Provided further that if, following an investigation the Director determines that there is any excess in numbers of BFT, he shall require the release of a suitable number of live BFT from the aquaculture establishment:

Provided further that aquaculture establishment may not compensate discrepancies in any way:

Provided further that activity according to this regulation shall be recorded the eBCD system.

Random
controls.

20. (1) Without prejudice to other controls according to these regulations, the Director shall order that each aquaculture establishment is subject to controlled transfers of all the BFT from such cages as the Director may require, to those other cages which the Director may require, which transfers shall be referred to as random controls:

Provided that such random control shall be monitored and controlled by video, inclusive of video recorded with stereoscopic cameras, as the Director may require:

Provided further that any random control ordered according to this regulation shall be notified to the operator of the concerned aquaculture establishment within a maximum period of forty-eight (48) hours from the expected commencement of the random control, but the actual cages affected shall only be communicated on site upon the arrival of the relevant fisheries protection officers.

(2) Random controls according to this regulation may be ordered at any time between the first caging operation at the aquaculture establishment within a particular year and the first such caging operation in the following year.

(3) If following a random control according to this regulation there is any resulting discrepancy between the BFT that should have been caged according to the relevant declarations and the BFT resulting following the random control, and said discrepancy is above that established according to international law, then the Director shall investigate the matter.

(4) On the basis of the results of the investigation referred in sub-regulation (3), the Director may make the necessary adjustments in the number and, or weight in the respective eBCDs to reflect the BFT actually caged and he may also order a number of BFT to be released by the aquaculture establishment operator according to such conditions as the Director may order.

(5) No compensation between the BFT in one cage and the BFT in another cage is permissible for any discrepancy resulting according to sub-regulation (3).

21. Any person who violates a provision of these regulations, including by 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 liable to a fine (*multa*) of not less than five hundred euro (€500) and not more than eighty thousand euro (€80,000). Offences.

22. The Blue Fin Tuna Harvesting Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder. Repeal and saving.
S.L. 425.13.

VERŻJONI ELETTRONIKA