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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Proposal for a Council Regulation fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters

- Commission non-paper

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Delegations will find attached a Commission non-paper on the above-mentioned proposal.

# COMMISSION SERVICES NON PAPER

**8 DECEMBER 2021**

*This document serves as a basis for discussion at the Working Party on Internal and External Fisheries Policy.*

*It cannot in any circumstances be regarded as the official position of the Commission.*

*It is intended solely for those to whom it is addressed.*

## **Updates to Commission Proposal for a Council Regulation fixing for 2022 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and for Union fishing vessels in certain non-Union waters (COM(2021) 661)**

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## 1. AMENDMENTS IN RELATION TO ICCAT

### EXPLANATORY NOTE

The outcome of the 2021 annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) annual meeting is now available. During this meeting, ICCAT decided to maintain in 2022 the current TACs for Bluefin tuna, swordfish, blue and white marlin, yellowfin tuna and blue shark, and established a TAC for bigeye tuna of 62 000 tonnes for 2022. Additionally, in accordance with the ICCAT rules, the Union requested to carry-over a percentage of its unused quota of fishing opportunities from 2020 to 2022 for some stocks. The Commission therefore proposes to implement that outcome in Union law.

The quotas of Northern albacore included in Regulation (EU) 2021/92 were based on the total Union quota as determined by ICCAT due to overfishing or underfishing by Member States. The application of subsequent deductions under Council Regulation (EC) 1224/2009 ('the Control Regulation') led to a situation where the overfishing of some Member States was 'corrected twice', i.e. under ICCAT rules and under EU law. Moreover, the overfishing by some Member States in 2019 had an impact on the actual fishing opportunities available in 2021 for the other Member States that did not overfish by way of a lower total Union quota in ICCAT. In order to address this particular situation the Commission proposes to amend Regulation (EU) 2021/92 to establish the quotas for Northern albacore for individual Member States on the basis of the total Union quota as determined by ICCAT, without taking into account any adjustments made by ICCAT due to overfishing or underfishing by Member States.

In order to avoid similar situations appearing in the future, the Commission proposes to establish quotas for individual Member States for certain stocks on the basis of a total Union quota for 2022 as set out by ICCAT before any adjustments due to overfishing or underfishing by Member States. The adjustments to the quotas of individual Member States for 2022 reflecting any carry-overs and deductions applied by ICCAT should be carried out subsequently on the basis of Union rules on carry-over and deductions such as Regulation (EC) 847/96, Article 15(9) of Regulation (EU) 1380/2013 or Article 105 of the Control Regulation.

Table A in Annex VI, point 4, should be established following the approval of the Union fishing plan by ICCAT in 2022, based on Member States proposals to be submitted by 31 January 2022, in accordance with ICCAT recommendation 19-04 and Regulation (EU) 2016/1627 setting management and control measures for bluefin tuna.

## AMENDMENTS TO RECITALS

Recitals (24) to (28) are replaced by the following:

- “(24) At its 2021 annual meeting, the International Commission for the Conservation of Atlantic Tunas (ICCAT) decided to maintain in 2022 the current TACs for Bluefin tuna, swordfish, blue and white marlin, yellowfin tuna and blue shark. ICCAT also established a TAC for bigeye tuna of 62 000 tonnes for 2022. Those measures should be implemented in Union law.
- (25) In order to reduce the fishing mortality of juvenile bigeye and yellowfin tuna, ICCAT also established a maximum limit of 300 fish-aggregating devices (FADs) per vessel in 2022 and a closure period for the use of FADs. Those measures should be implemented in Union law.
- (26) ICCAT also adopted a 15-year rebuilding plan for Mediterranean albacore from 2022 to 2036. For 2022, ICCAT set the TAC for Mediterranean albacore at 2 500 tonnes. In addition, ICCAT adopted a TAC for North Atlantic albacore of 37 801 tonnes for the period from 2022 to 2023, based on the harvest control rule with a view to adopting a long-term management procedure for this stock. Those measures should be implemented in Union law.
- (27) At its 2021 annual meeting, ICCAT also adopted a recovery plan for North Atlantic shortfin mako caught in association with other ICCAT fisheries to end overfishing and gradually achieve biomass levels sufficient to support MSY by 2070. The recovery plan includes a two-year retention ban starting in 2022. The total fishing mortality was set at a maximum of 250 tonnes until new scientific advice is provided. Those measures should be implemented in Union law.
- (28) Under several ICCAT recommendations, the Union may, upon request, carry-over a set percentage of its unused quota of fishing opportunities from 2020 to 2022. Pending the implementation of these ICCAT recommendations into EU law, the quotas for individual Member States for certain stocks should be established on the basis of a total Union quota for 2022 as determined by ICCAT before any carry-over of unused quotas and/or deductions for quantities overfished made by ICCAT. The adjustments to the quotas of individual Member States for 2022 reflecting any carry-overs and deductions should be carried out at a later stage on the basis of Union rules on carry-over and deductions such as Regulation (EC) 847/96, Article 15(9) of Regulation (EU) 1380/2013 or Article 105 of Council Regulation (EC) 1224/2009.”

The following recital is inserted:

“(28a) Northern Albacore was overfished by some Member States in 2019, resulting in overfishing of the total Union quota and the application of a deduction by ICCAT, despite the fact that other Member States did not exhaust their individual quotas in the same year. In order to address this particular situation, Regulation (EU) 2021/92 should be amended by establishing quotas for Northern albacore for individual Member States in accordance with the principle of relative stability and on the basis of the total Union quota as determined by ICCAT for 2021 before any adjustments due to overfishing or underfishing by Member States are made. Quota adjustments should then be applied on the basis of Union rules on carry-over and deductions such as Regulation (EC) 847/96, Article 15(9) of Regulation (EU) 1380/2013 or Article 105 of Regulation (EC) 1224/2009 in order to ensure that the total Union quota for Northern albacore takes into account the adjustments made by ICCAT.”

The following sentence is inserted at the end of recital (44):

“Moreover, in accordance with ICCAT rules, Member States should ensure that their vessels do not deploy FADs during the 15 days before the start of the closure period, i.e. from 17 December 2021 onwards.”

#### **AMENDMENTS TO ARTICLES**

In Article 21, the following paragraph is added:

“6. It shall be prohibited to retain on board, tranship or land any part or whole carcass of North Atlantic shortfin mako (*Isurus oxyrinchus*) caught in fisheries in the ICCAT Convention Area.”

In Chapter III, Section 3 the following article is inserted:

*“Article 21a  
FADs for Tropical Tunas*

1. The use of FADs shall be prohibited in the ICCAT Convention Area from 1 January to 13 March 2022.
2. During the 15 days before the start of the closure period referred to in paragraph 1, Member States shall ensure that their vessels do not deploy FADs. Each vessel shall have no more than 300 FADs with operational buoys deployed at any time in the ICCAT Convention Area.
3. Member States shall report to the Commission historical FADs set data for their purse seine vessels by 30 June 2022. Vessels flying the flag of Member States that do not report this data by that date shall be prohibited from setting FADs until such data is received from those Member States by the Commission for further reporting to ICCAT.”

In Title IV, the following article is inserted:

*“Article 51a  
Amendment to Council Regulation (EU) 2021/92*

In Annex ID of Council Regulation (EU) 2021/92, the fishing opportunities table for Northern albacore (ALB/AN05N) is replaced by the following:

Species:	Northern albacore <i>Thunnus alalunga</i>	Zone:	Atlantic Ocean, north of 5° N (ALB/AN05N)
Ireland	3 174,03	Analytical TAC	
Spain	17 890,00	Article 3 of Regulation (EC) No 847/96 shall not apply	
France	5 626,69	Article 4 of Regulation (EC) No 847/96 shall not apply	
Portugal	1 962,13		
Union	28 652,85 <sup>(1)</sup>		
TAC	37 801		

<sup>(1)</sup> The number of Union fishing vessels fishing for northern albacore as a target species, in accordance with Article 12 of Regulation (EC) No 520/2007, shall be 1 253. Those quotas will be subject to the appropriate deductions pursuant to Article 105 of Regulation (EU) 1224/2009, in order to implement quotas allocated to the Member States under this Regulation with the adaptations respecting the EU overall quota at ICCAT level.

”

In Article 54, the following paragraph is inserted after the third subparagraph:

“Paragraph 2 of Article 21a shall apply from 17 December 2021.”

## AMENDMENTS TO ANNEX ID

Annex ID is replaced by the following:

### “ANNEX ID

#### ICCAT CONVENTION AREA

Species:	Bluefin tuna <i>Thunnus thynnus</i>	Zone:	Atlantic Ocean, east of 45° W, and Mediterranean (BFT/AE45WM)
Cyprus	168,95 <sup>(4)</sup>	Analytical TAC	
Greece	314,03 <sup>(7)</sup>	Article 3 of Regulation (EC) No 847/96 shall not apply	
Spain	6 093,28 <sup>(2)(4)(7)</sup>	Article 4 of Regulation (EC) No 847/96 shall not apply	
France	6 012,47 <sup>(2)(3)(4)</sup>		
Croatia	950,30 <sup>(6)</sup>		
Italy	4 745,34 <sup>(4)(5)</sup>		
Malta	389,32 <sup>(4)</sup>		
Portugal	572,97 <sup>(7)</sup>		
Other Member States	64,95 <sup>(1)</sup>		
Union	19 311,60 <sup>(2)(3)(4)(5)</sup>		
Special additional allocation	100 <sup>(7)</sup>		
TAC	36 000		

<sup>(1)</sup> Except Cyprus, Greece, Spain, France, Croatia, Italy, Malta and Portugal, and exclusively as by-catch. Catches to be counted against this shared quota shall be reported separately (BFT/AE45WM\_AMS).

<sup>(2)</sup> Special condition: within this TAC, the following catch limits and allocation between Member States shall apply to catches of bluefin tuna between 8 kg/75 cm and 30 kg/115 cm by the vessels referred to in point 1 of Annex VI (BFT/\*8301):

Spain	923,02
France	428,79
Union	1 351,81

- (3) Special condition: within this TAC, the following catch limits and allocation between Member States shall apply to catches of bluefin tuna weighing no less than 6,4 kg or measuring no less than 70 cm by the vessels referred to in point 1 of Annex VI (BFT/\*641):

France	100,00
Union	100,00

- (4) Special condition: within this TAC, the following catch limits and allocations between Member States shall apply to catches of bluefin tuna between 8 kg/75 cm and 30 kg/115 cm by the vessels referred to in point 2 of Annex VI (BFT/\*8302):

Spain	121,87
France	120,25
Italy	94,91
Cyprus	3,38
Malta	7,79
Union	348,19

- (5) Special condition: within this TAC, the following catch limits and allocations between Member States shall apply to catches of bluefin tuna between 8 kg/75 cm and 30 kg/115 cm by the vessels referred to in point 3 of Annex VI (BFT/\*643):

Italy	95,13
Union	95,13

- (6) Special Condition: within this TAC, the following catch limits and allocations between Member States shall apply to catches of bluefin tuna between 8 kg/75 cm and 30 kg/115 cm by the vessels referred to in point 3 of Annex VI for farming purposes (BFT/\*8303F):

Croatia	855,27
Union	855,27

- (7) In 2022 the Union will receive, in addition to the allocated quota of pm tonnes, an extra allocation of pm tonnes, exclusively for artisanal vessels from specific archipelagos in Greece (Ionian Islands), Spain (Canary Islands) and Portugal (Azores and Madeira). The specific allocation of this additional quantity to the Member States concerned shall be as follows (BFT/AVARCH):

Greece	4,5
Spain	87,3
Portugal	8,2
Union	100

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Species:	Swordfish <i>Xiphias gladius</i>	Zone:	Atlantic Ocean, north of 5° N (SWO/AN05N)
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Spain	5 558,59	(2)(3)	Analytical TAC
Portugal	1 010,29	(2)(3)	
Other Member States	108,29	(1)(2)(3)	
Union	6 677,33		

TAC 13 200

(1) Exclusively as by-catch. Catches to be counted against this shared quota shall be reported separately (SWO/AN05N\_AMS).

(2)

Special condition: up to 2,39 % of this quantity may be fished in the Atlantic Ocean, south of 5° N (SWO/\*AS05N). Catches to be counted against the special condition of the shared quota shall be reported separately (SWO/\*AS05N\_AMS).

Species:	Swordfish <i>Xiphias gladius</i>	Zone:	Atlantic Ocean, south of 5° N (SWO/AS05N)
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Spain	4 525,88	(1)(2)	Analytical TAC
Portugal	298,12	(1)(2)	
Union	4 824,00		

TAC 14 000

(1)

Special condition: up to 3,51 % of this quantity may be fished in the Atlantic Ocean, north of 5° N (SWO/\*AN05N).

Species:	Swordfish <i>Xiphias gladius</i>	Zone:	Mediterranean Sea (SWO/MED)
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Croatia	13,74	(1)	Analytical TAC
Cyprus	50,67	(1)	
Spain	1 565,04	(1)	
France	109,08	(1)	
Greece	1 036,02	(1)	

Italy	3 208,45	(1)
Malta	380,64	(1)
Union	6 363,64	(1)

TAC 9 016,71

(1) This quota may only be fished from 1 April to 31 December.

Species:	Northern albacore <i>Thunnus alalunga</i>	Zone:	Atlantic Ocean, north of 5° N (ALB/AN05N)
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Ireland	3 174,03	(2)	Analytical TAC
Spain	17 890,00	(2)	
France	5 626,69	(2)	
Portugal	1 962,13	(2)	
Union	28 652,85	(1)	

TAC 37 801

(1)

The number of Union fishing vessels fishing for northern albacore as a target species, in accordance with Article 12 of Regulation (EC) No 520/2007, shall be 1 241.

Species:	Southern albacore <i>Thunnus alalunga</i>	Zone:	Atlantic Ocean, south of 5° N (ALB/AS05N)
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Spain	724,69	Analytical TAC
France	238,16	
Portugal	507,15	
Union	1 470,00	

TAC 24 000

Species:	Mediterranean albacore <i>Thunnus alalunga</i>	Zone:	Mediterranean Sea (ALB/MED)
TAC	2 500 <sup>(1)(2)</sup>	Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply	

- (1) In order to protect juvenile swordfish, a closure period shall also apply to longline vessels targeting Mediterranean albacore from 1 October to 30 November. In addition, Mediterranean albacore, either as a targeted species or as by-catch, shall not be caught, retained on board, transhipped or landed from 1 January to 31 March.
- (2) Each Member State shall limit the number of their fishing vessels authorised to fish for Mediterranean albacore to the number of vessels authorised to fish this species in 2017. Member States may apply a tolerance of 10% to this capacity limit.

Species:	Bigeye tuna <i>Thunnus obesus</i>	Zone:	Atlantic Ocean (BET/ATLANT)
Spain	7 438,09 <sup>(1)(2)</sup>	Analytical TAC	
France	3 159,38 <sup>(1)(2)</sup>	Article 3 of Regulation (EC) No 847/96 shall not apply	
Portugal	2 823,84 <sup>(1)(2)</sup>	Article 4 of Regulation (EC) No 847/96 shall not apply	
Union	13 421,31 <sup>(1)(2)</sup>		
TAC	62 000 <sup>(1)(2)</sup>		

- (1) Catches of bigeye tuna by purse seiners (BET/\*ATLPS) and long liners with an overall length of 20 meters and above (BET/ \*ATLLL) shall be reported separately.
- (2) As of June 2022, when catches reach 80 % of the quota, Member States are required to transmit the catches for these vessels on a weekly basis.

Species:	Blue marlin <i>Makaira nigricans</i>	Zone:	Atlantic Ocean (BUM/ATLANT)
Spain	22,77	Analytical TAC	
France	332,82	Article 3 of Regulation (EC) No 847/96 shall not apply	
Portugal	46,21	Article 4 of Regulation (EC) No 847/96 shall not apply	
Union	401,80		
TAC	1670		

Species:	White marlin <i>Tetrapturus albidus</i>	Zone:	Atlantic Ocean (WHM/ATLANT)
Spain	30,50	Analytical TAC	
Portugal	19,50	Article 3 of Regulation (EC) No 847/96 shall not apply	
Other	( <sup>1</sup> )	Article 4 of Regulation (EC) No 847/96 shall not apply	
Union	50,00		
TAC	355		

(<sup>1</sup>) Catches to be counted against this shared quota shall be reported separately (WHM/ATLANT\_AMS).

Species:	Yellowfin tuna <i>Thunnus albacares</i>	Zone:	Atlantic Ocean (YFT/ATLANT)
TAC	110 000 ( <sup>1</sup> )	Analytical TAC	
Article 3 of Regulation (EC) No 847/96 shall not apply			
Article 4 of Regulation (EC) No 847/96 shall not apply			

(<sup>1</sup>) Catches of yellowfin tuna by purse seiners (YFT/\*ATLPS) and long liners with an overall length of 20 metres and above (YFT/\*ATLLL) shall be reported separately.

Species:	Sailfish <i>Istiophorus albicans</i>	Zone:	Atlantic Ocean, east of 45°W (SAI/AE45W)
TAC	1 271	Analytical TAC	
Article 3 of Regulation (EC) No 847/96 shall not apply			
Article 4 of Regulation (EC) No 847/96 shall not apply			

Species:	Sailfish <i>Istiophorus albicans</i>	Zone:	Atlantic Ocean, west of 45°W (SAI/AW45W)
TAC	1 030	Analytical TAC	
Article 3 of Regulation (EC) No 847/96 shall not apply			
Article 4 of Regulation (EC) No 847/96 shall not apply			

Species:	Blue shark <i>Prionace glauca</i>	Zone:	Atlantic Ocean, north of 5° N (BSH/AN05N)
Ireland	1	Analytical TAC	
Spain	27 035	Article 3 of Regulation (EC) No 847/96 shall not apply	
France	152	Article 4 of Regulation (EC) No 847/96 shall not apply	
Portugal	5 358		
Union	32 545		
TAC	39 102		

Species:	Blue shark <i>Prionace glauca</i>	Zone:	Atlantic Ocean, south of 5° N (BSH/AS05N)
TAC	28 923 <sup>(1)</sup>	Analytical TAC	
		Article 3 of Regulation (EC) No 847/96 shall not apply	
		Article 4 of Regulation (EC) No 847/96 shall not apply	

<sup>(1)</sup> The time period and the calculation method used by ICCAT to set the catch limit for North Atlantic blue shark shall be without prejudice to the time period and the calculation method used to define any future allocation key at Union level.

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## AMENDMENTS TO ANNEX VI

Annex VI is replaced by the following:

### “ANNEX VI

#### ICCAT CONVENTION AREA<sup>1</sup>

1. Maximum number of Union bait boats and trolling boats authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Eastern Atlantic

Spain	60
France	55
Union	115

2. Maximum number of Union coastal artisanal fishing vessels authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Mediterranean

Spain	364
France	140 <sup>2</sup>
Italy	30
Cyprus	20 <sup>2</sup>
Malta	54 <sup>2</sup>
Union	684

3. Maximum number of Union fishing vessels authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Adriatic Sea for farming purposes

Croatia	18
Italy	12
Union	28

<sup>1</sup> The numbers shown in points 1, 2 and 3 may decrease in order to comply with international obligations of the Union.

<sup>2</sup> This number may increase if a purse seiner is replaced by 10 longline vessels in accordance with the Table A in point 4 of this Annex once that table is established.

4. Maximum number of fishing vessels of each Member State that may be authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the Eastern Atlantic and Mediterranean

Table A<sup>3</sup>

	Number of fishing vessels <sup>4</sup>							
	Cyprus <sup>5</sup>	Greece <sup>6</sup>	Croatia	Italy	France	Spain	Malta <sup>7</sup>	Portugal
Purse seine vessels <sup>8</sup>	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.
Longliners	To be establ. <sup>9</sup>	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.
Baitboat	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ. <sup>10</sup>
Handline	To be establ.	To be establ.	To be establ.	To be establ.	To be establ. <sup>11</sup>	To be establ.	To be establ.	To be establ.
Trawler	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.
Small-scale	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.
Other artisanal <sup>12</sup>	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.	To be establ.

<sup>3</sup> This table will be established following the approval of the Union fishing plan by ICCAT in 2022, in accordance with the applicable ICCAT recommendations and Union rules.

<sup>4</sup> The numbers in this Table A of point 4 may be further increased, provided that the international obligations of the Union are complied with.

<sup>5</sup> One medium-size purse seiner may be replaced by no more than 10 longline vessels or one small purse seiner and no more than three longline vessels.

<sup>6</sup> One medium-size purse seiner may be replaced by no more than 10 longline vessels or one small-size purse seiner and three other artisanal vessels.

<sup>7</sup> One medium-size purse seiner may be replaced by no more than 10 longline vessels.

<sup>8</sup> The individual number of purse seiner in table A in section 4 are the result of transfers between Member states and do not constitute historical rights for the future.

<sup>9</sup> Polyvalent vessels, using multi-gear equipment.

<sup>10</sup> Baitboats of the outermost regions of Azores and Madeira.

<sup>11</sup> Line vessels operating in the Atlantic.

<sup>12</sup> Polyvalent vessels, using multi-gear equipment (longline, handline, trolling line).

5. Maximum number of traps engaged in the Eastern Atlantic and Mediterranean bluefin tuna fishery authorised by each Member State<sup>13</sup>

Member State	Number of traps <sup>14</sup>
Spain	5
Italy	6
Portugal	2

6. Maximum bluefin tuna farming capacity and fattening capacity for each Member State and maximum input of wild caught bluefin tuna that each Member State may allocate to its farms in the Eastern Atlantic and Mediterranean.

Table A

Maximum tuna farming capacity and fattening capacity		
	Number of farms	Capacity (in tonnes)
Spain	10	11852
Italy	13	9564
Greece	2	2100
Cyprus	3	3000
Croatia	7	7880
Malta	6	14511
Portugal	1	500

<sup>13</sup> The numbers in section 4 and 5 must be adapted in light of fishing plans submitted by Member States by 31 January 2022 for endorsement by Panel 2 of ICCAT.

<sup>14</sup> This number may be modified upon request by Member States in accordance with Article 6(1) of Regulation (EU) 2016/1627, provided that the international obligations of the Union are complied with.

table B

Maximum input of wild caught bluefin tuna (in tonnes) <sup>15</sup>	
Spain	6850
Italy	1739,5
Greece	785
Cyprus	2195
Croatia	2947
Malta	10260,5
Portugal	350

7. The distribution between the Member States of the maximum number of fishing vessels flying the flag of a Member State authorised to fish for Northern albacore as a target species in accordance with Article 12 of Regulation (EC) No 520/2007 shall be as follows:

Member State	Maximum number of vessels
Ireland	50
Spain	730
France	151
Portugal	310

<sup>15</sup> The figures in table B in section 6 must be adapted in light of the farming plans submitted by Member States by 31 January 2022.

8. Maximum number of Union fishing vessels of at least 20 meters length that fish for bigeye tuna in the ICCAT Convention Area shall be as follows:

Member State	Maximum number of vessels with purse seines	Maximum number of vessels with longlines
Spain	23	190
France	11	
Portugal		79
Union	34	269

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