

Original: English

**RESPONSES FROM EU TO QUESTIONS ON  
COMPLIANCE ISSUES RAISED BY THE UNITED STATES**

EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

International Ocean Governance and Sustainable Fisheries  
Regional Fisheries Management Organisations  
The Deputy Director and Head of Unit

Brussels,  
MARE/B2/(2021)

Mr D. Campbell  
Chair of the Conservation and Management Measures Compliance Committee  
Mr. Camille Jean Pierre Manel  
Executive Secretary ICCAT  
28002 Madrid Spain

**SUBJECT: QUESTIONS ON COMPLIANCE ISSUES RAISED BY THE UNITED STATES**

Dear Mr. Campbell, Dear Mr. Manel,

We would like to provide the following clarifications to the questions asked by the United States in response to Circular 8102/21.

**North Atlantic shortfin mako**

EU vessels do not target shortfin mako (SMA), which is caught as by-catch associated to other ICCAT fisheries. All catches of SMA by EU vessels are declared in the logbooks, however the tool currently does not allow for a distinction between dead discards and live releases.

The French competent authorities monitor the discards declarations. Vessels not reporting any discards are also monitored. Portugal has created an extraction tool for data reported in the e- logbook, which allows for the visualisation of all the mandatory fields for registration, both at the level of quantities and species caught and the identification of the catch areas. Validation is performed on a daily basis, with the help of automatic alerts created for this purpose. The confirmation of the capture zone, inside or outside the EEZ, is done by the VMS system, where vessel position and capture signal are identified and validated.

As per EU control rules, EU member states authorities perform regular at sea and at landing inspections based on risk assessment (established on the basis of monitoring and crosschecks) as well as random controls. Those inspections are executed within the scope of the Joint Deployment Plan coordinated by the European Fisheries Control Agency.

**Joint Inspection Schemes (COC-303 Annex 3)**

Four and two inspection reports with possible non-compliances have been reported for Italy and Malta respectively. At the time of writing this reply, we have not yet received the information concerning the Malta cases. The follow-up given to the cases of Italian vessels is as follows:

**1. Inspection report 104-8902. Issued to IT longliner MICHELE JUNIOR.**

The inspectors reported 2 PNCs: one related to the missing boarding ladder and the second for obstructing the inspectors. The case was evaluated and dismissed due to the following circumstances:

The vessel is equipped with a ladder, which is also used by the crew to go from the main deck to the flyer. Moreover, the master of the vessel declared that at the moment of the inspection, the crew was engaged in hauling the longline and they asked the inspectors to wait until the completion of the fishing operation or to board the vessel without using the pilot ladder. The inspectors decided not to wait until the end of the fishing operations and to issue a PNC.

Point 9, Annex 7, Rec 19-04 states that the fishing vessel shall stop when given the appropriate signal unless the vessel is actually carrying out fishing operations, in which case it shall stop immediately once it has finished such operations.

**2. Inspection report 105-8900, issued to IT towing vessel SILVIA C.**

The inspector reported a PNC related to the missing eBCD on board. They also reported a PNC due to incomplete information recorded in the observer logbook. This last PNC was withdrawn after the completion of the inspection report.

The PNC related to the observer logbook was dismissed because it cannot be attributed to the fishing vessel. For the PNC related to the missing eBCD, an administrative procedure has started against the master of the fishing vessel.

**3. Inspection report on IT towing vessel BUCEFALO and related statement.**

A control transfer was carried out and the figures obtained from that control transfer were within the 10% margin of tolerance and therefore no further action was needed.

**4. Inspection report on IT towing vessel VINCENZO RUTA**

The Libyan Authorities (flag State of the catching vessel) ordered a control transfer that, as we have been informed, was carried out in the vicinity of the destination farm. A release operation associated with that control transfer was carried out on 27th July. The IT authorities consider that the IT TW VINCENZO RUTA is not responsible for any non-compliance.

**Tarantelo operation**

As we have communicated on previous occasions, including in the EU's response of 1 October 2021 to the COC Chair's compliance letter (see COC 309), the EU has addressed the Tarantelo case, as well as the loopholes that the case revealed, at several levels: (i) at EU level in terms of improving EU Member States' legal framework, (ii) at EU level in terms of beefing up controls, (iii) at EU level through the judicial process and (iv) at ICCAT level through the leading role that the EU has endorsed in the revision of the ICCAT rules for the BFT fisheries, notably Recommendation 19-04.

**(i) Improving EU Member States' legal framework and compliance**

The European Commission has carried out a series of verifications and audits in all Member States with active BFT farms and traps. The verifications found shortcomings in some of them and as a result, the EU Commission launched an infringement procedure against one Member State and formally asked another Member State to launch an administrative inquiry into its domestic BFT control system. The EU Commission is closely monitoring progress made by these Member States to ensure that control rules are adapted to provide a rigorous and effective control system. This possibility to audit the fisheries control systems in the different EU Member States and take action in cases of non-

compliance, are tools that the European Commission has been endowed with to ensure that EU control rules are correctly implemented in the different Member States. Below some examples of improvements triggered by these initiatives in one Member State:

- Provision of seals to cage rings: putting official seals on all transport cages which were attributed with the cage numbers. The objective of this provision is to avoid manipulation or changes in cage numbering.
- Caging Operations: all caging operations are being conducted with both stereoscopic camera systems and also conventional videos underwater. At the time of the operation, officers monitor all the footage. In addition, each stereoscopic footage is analysed by the Department's officials. On a caging-by-caging basis and where a discrepancy of over 10% is identified an investigation is launched accordingly.
- Sealing of cage doors: After each caging operation, each cage door/s is sealed with Authorities' official seals in order to avoid any manipulation of the BFT after caging. These seals are randomly checked at inspections on the farm areas.
- Harvesting Operations: All harvesting operations are conducted under the supervision of the Maltese Authorities officials. Data collected from the harvesting operations is submitted daily to the BFT control team for the purpose of cross-checking of the allowable growth rates and validation of respective sections (Harvest) of the relevant eBCDs. Malta has succeeded in developing a working table whereby growth rates are monitored to the nearest day, i.e. till the day of harvesting.
- Processing Vessels: All reefers entering Malta for the purpose of harvesting operations are issued with an authorisation to harvest following an inspection by DFA officials on the subject vessel. Each reefer vessel must be equipped with a VMS transmitting positions which must be received by the Malta FMC in real time. Each reefer vessel is to be equipped with a CCTV covering the processing area of each vessel. The relevant footage is saved on an external drive. The objective of this provision is to deter any illegal harvesting out of the control period. These footages are then collected by the Maltese Authorities prior to the final departure of the subject vessel.
- All processing vessels present on BFT Farms are inspected at arrival in Malta and prior to initialisation of harvesting operations. Each vessel is again inspected at every entry into port for the purpose of unloading, prior to the unloading operations and also after the concluding of the unloading of the previously harvested BFT into freezer containers.
- Surprise monitoring: The surveillance operations of the Maltese Authorities are not limited only to during scheduled operations, but also includes other checks on all farms within the designated aquaculture area.
- Underwater drones: The Maltese Authorities have acquired underwater drones that will aid in the better underwater control in relation to all farming activities.
- Random Control Transfers. Following the caging season, the Authorities conduct Random Control Transfers in line with the procedures as established within the Annex V of the JDP Decision. In cases where the random control transfers result in discrepancies action is taken.
- Memoranda of Understanding: The Maltese Authorities concluded discussions and signed two Memoranda of Understanding (MoU) with the Malta Customs and the Malta Police Force, in 2021.

**(ii) Judicial proceedings**

In the latest update given by the Spanish authorities on the judicial proceedings (October 2021) the authorities informed that the case is in the Central Instruction Court nº 3 under the Nacional Audiencia, the process is still in an pre-trial phase, and that more work still needs to be done at this stage. Once this phase is completed, the Court will begin taking statements from the arrested and accused persons.

The long judicial process is explained by the large scale of the operation, possibly unprecedented in fisheries. There were 29 simultaneous searches of companies and wholesale markets and a dozen fishing societies, distributed in 12 different provinces, with 79 people arrested. This was preceded by several months of previous investigations which included surveillance and interceptions of communications. These are tools which are not normally available for fisheries control, and required a significant effort in terms of resources, but which clearly show the commitment to act when cases of illegal fishing become known to the authorities.

**(iii) Improvements at ICCAT level**

The EU has been the driving force behind the ongoing ambitious revision of Recommendation 19-04, especially as the chair of the BFT Species Group. The EU has made very substantial efforts to identify possible weaknesses in the ICCAT rules that could have made this illegal activity possible, and to identify ways to address them. The background preparation of this revision has represented a very substantial investment in time and resources for the EU and the EU hopes that it will be adopted at the ICCAT annual meeting 2021. After this is adopted, the EU considers that there might still be some room for improvement of the BFT rules. The EU is considering other avenues to even further strengthen them in the months to come, for instance by amending the list of serious infringements to include farming and associated activities.

**(iv) Strengthening control at EU and EU Member States' level**

As has already been reported, procedures have been established in the Mediterranean and Eastern Atlantic Joint Deployment Plan (JDP) and in particular its Annex V (Specific control procedures for the BFT fishery), which includes procedures which go beyond the current ICCAT requirements. The JDP is the EU instrument to ensure coordination and harmonization of control and inspection activities in the EU by Member States, with the involvement of the European Fisheries Control Agency (EFCA).

Among the measures adopted in the above-mentioned Annex are:

- the sealing with official seals of all farm cages containing BFT;
- standard operational procedures for the control of caging operations,
- protocols for the conduct of investigations when discrepancies are found, including its follow-up in case discrepancies are confirmed,
- protocols for collaboration and exchange of information between Member States;
- minimum standards and protocols for the conduct of random controls and carry-over assessments, including measures for their follow-up.

Lastly, we would like to point out that the relative figures quoted by the United States seem to be very improbable estimates (*estimates placing the annual illegal catch at double those of legal limits*). We are aware that there have been contradictory figures given in press releases about the operation, but the initial and preliminary estimate by the Guardia Civil and Interpol during the investigation was 2,500 tonnes. This estimate should be taken with caution as well as it is a rough estimate disclosed by the authorities at the beginning of the operation and have not been confirmed. The EU notes however that this figure is significant but is substantially smaller than the quantities legally caught and sold (the EU BFT quota for 2018 was 15,850 tonnes and the EU farms, and in particular Malta, receive a significant amount of tuna from other CPCs).

The EU will keep informing ICCAT of developments in the investigation as soon as details can be made public or rulings are issued in the cases that are before the courts. Until then, it is not possible to accurately estimate the scope and extent of the smuggling operation.

Yours sincerely,

Anders C. Jessen  
Head of the EU Delegation to ICCAT