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**PROPOSAL**

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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	28 July 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 424 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down conservation and management measures for the Conservation of the Southern Bluefin Tuna

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Delegations will find attached document COM(2021) 424 final.

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Encl.: COM(2021) 424 final



Brussels, 28.7.2021  
COM(2021) 424 final

2021/0242 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down conservation and management measures for the Conservation of the  
Southern Bluefin Tuna**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

The purpose of this proposal is to implement into EU law the relevant control, conservation and management measures adopted by the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). The CCSBT is the regional fisheries management organisation (RFMO) responsible for managing Southern bluefin tuna (*Thunnus maccoyii* – SBF) through its area of distribution. The CCSBT has a mandate to adopt conservation and enforcement measures for the fisheries under its purview, and these are binding on its contracting parties.

The Convention for the Conservation of Southern Bluefin Tuna (the Convention) does not provide for the accession of regional economic integration organisations, such as the EU. To promote cooperation in the conservation and management of Southern bluefin tuna, the CCSBT has created the Extended Commission for the Conservation of Southern Bluefin Tuna (Extended Commission), in which the EU can participate as a member. Decisions adopted by the Extended Commission become decisions of the CCSBT at the end of the annual meeting session to which they were reported, unless the CCSBT decides to the contrary, which to date has never occurred.

Under Article 5(1) and Article 8(7) of the Convention, complemented by paragraph 6 of the CCSBT Resolution to Establish an Extended Commission and an Extended Scientific Committee, members of the Extended Commission have the same obligations as members of the CCSBT; they must therefore comply with the decisions of the CCSBT and contribute to it financially. The EU has been a member of the Extended Commission since 2015.

Unlike other RFMOs in which the EU participates, the EU has no fishing vessels that target Southern bluefin tuna and it has reported only accidental by-catches of this species in the past and none since 2012. Nevertheless, it is still appropriate to comply with CCSBT measures that relate to the activities and characteristics of the EU fleet and to the trade in Southern bluefin tuna.

The area of distribution of Southern bluefin tuna, where this species is known to occur, overlaps with the areas of the Indian Ocean Tuna Commission<sup>1</sup>, the Western and Central Pacific Tuna Commission<sup>2</sup> and the International Commission for the Conservation of Atlantic Tunas<sup>3</sup>. The EU long-line fleet that targets tropical tunas and tuna-like species has reported limited by-catches of Southern bluefin tuna in these areas.

The Commission, on behalf of the Union, draws up negotiating guidelines based on scientific advice and a 5-year mandate established by Council Decision. In line with the mandate, these guidelines are presented, discussed and endorsed at the Council working party; they are further adjusted, to take account of real-time developments, at coordination meetings with Member States in the margins of the CCSBT annual meetings. Annual meetings of the Union

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<sup>1</sup> Council Decision 95/399/EC of 18 September 1995 on the accession of the Community to the Agreement for the establishment of the Indian Ocean Tuna Commission (OJ L 326, 5.10.1995, p 24).

<sup>2</sup> Council Decision 2005/75/EC of 26 April 2004 on the accession of the Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (OJ L 32, 4.2.2005, p. 1).

<sup>3</sup> Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984 (OJ L 162, 18.6.1986, p. 33).

Delegation to the CCSBT bring together the Commission, the Council and stakeholder' representatives.

All CCSBT measures are adopted by consensus. The CCSBT does not have an objection procedure in place.

Though aimed mainly at the contracting parties, CCSBT measures also impose obligations on operators (e.g. vessel masters).

This proposal is limited to CCSBT measures that apply to the Union, taking account of the specificity and activities of its fleet (no targeted fishery, exclusively accidental by-catches in the past but none reported recently, no transshipments or landings) and of the trade in Southern bluefin tuna, as amended at the CCSBT's annual meetings. The Union must ensure compliance with these measures, which are international obligations, as soon as they enter into force. This proposal is therefore designed to implement the most recent version of the CCSBT measures and establish a mechanism for implementing them in the future. In practice, most obligations will be only triggered if the Union fleet accidentally by-catches Southern bluefin tuna, which has not occurred since 2012, and retains those fish on-board, something that has not been reported to date.

The process of implementing measures adopted by RFMOs into EU law, from the first draft Commission proposal to the adoption of a final act by the Council and the European Parliament, takes an average of 18 months. Delegated powers ensure that the Union is able quickly to implement measures that will benefit the EU fleet, improve the level playing-field and further support the long-term sustainable management of stocks.

This proposal provides for delegated powers to be granted to the Commission under Article 290 TFEU, to cater for amendments to CCSBT measures and ensure that EU fishing vessels are on an equal footing with those of other contracting parties. Examples of such measures are: the CCSBT Record of Vessels Authorised to Fish for Southern Bluefin Tuna; aligning the CCSBT's Ecologically Related Species measures with those of other tuna RFMOs; and reporting deadlines.

The reporting deadlines set out in this proposal are based on deadlines in the CCSBT measures, so that the EU can make timely submissions of reports to the CCSBT Secretariat.

- **Consistency with existing policy provisions in the policy area**

This proposal complements, and is consistent with, other provisions of Union law in this area. Derogations from existing acts are, however, established in certain instances due to the nature of the more specific measures proposed.

This proposal is in line with Part VI (External Policy) of Regulation (EU) No 1380/2013 on the common fisheries policy (CFP)<sup>4</sup>. This provides for the Union to conduct its external fisheries in accordance with its international obligations, base its fishing activities on regional fisheries cooperation and charge the European Fisheries Control Agency with ensuring compliance.

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<sup>4</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

The proposal complements Regulation (EU) 2017/2403<sup>5</sup> on external fleet management, which provides that EU fishing vessels are subject to the list of fishing authorisations under the conditions and rules of the RFMO in question, and Council Regulation (EC) No 1005/2008<sup>6</sup> on illegal, unreported and unregulated (IUU) fishing.

This proposal does not cover fishing opportunities for the EU, as decided by the CCSBT. Under Article 43(3) TFEU, it is the Council's prerogative to adopt measures on prices, levies, aid and quantitative limitations, and on the fixing and allocation of fishing opportunities.

- **Consistency with other Union policies**

Not applicable.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 43(2) TFEU, as it sets out provisions necessary to pursue the objectives of the CFP.

- **Subsidiarity (for non-exclusive competence)**

As the proposal falls under the exclusive competence of the Union (Article 3(1)(d) TFEU), the subsidiarity principle does not apply.

- **Proportionality**

The proposal will ensure that EU law is in line with international obligations adopted by the CCSBT and that the EU complies with decisions taken by an RFMO to which it is a contracting party. The proposal does not exceed what is necessary to achieve these objectives.

- **Choice of the instrument**

The instrument chosen is a Regulation of the European Parliament and of the Council.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not relevant.

- **Stakeholder consultations**

The purpose of this proposal is to implement into Union law CCSBT measures that are binding on members of the Extended Commission. National experts and industry representatives are consulted both during the run-up to the CCSBT annual meetings at which the measures are adopted and throughout negotiations at the meetings. Consequently, it was not considered necessary to hold a stakeholder consultation on this proposal.

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<sup>5</sup> Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of the external fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

<sup>6</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not relevant. This concerns the implementation of measures directly applicable in the Member States.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT.

- **Fundamental rights**

This proposal has no consequences for the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

There are no budgetary implications.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The proposal covers the CCSBT provisions applicable to the EU, taking into account the specificity of the EU fleet (no targeted fishery, exclusively accidental by-catches and none recently reported, no transshipments or landings) and the trade in Southern bluefin tuna. In practice, most obligations will be only triggered if the EU fleet accidentally by-catches Southern bluefin tuna, which has not occurred since 2012, and retains those fish on-board, something that has not been reported to date. The provisions lay down the proposal's subject, scope and definitions.

The targeting of the Southern bluefin tuna is prohibited, with only by-catches being allowed. Union fishing vessels that could by-catch the species shall be registered in the CCSBT record of vessels.

The proposal implements the CCSBT catch documentation scheme (CDS). By-catches of Southern bluefin tuna shall be tagged with catch tagging forms, while import, export and re-export documents are mandatory for the trading of Southern bluefin tuna.

Catch monitoring documents and tagging forms shall be validated and verified by flag Member States. The proposal also implements CCSBT provisions concerning reviews and investigations related to the CDS and the maintenance of CDS records.

All transshipments of Southern bluefin tuna shall take place in ports. There is an obligation to notify transshipments and use transshipment declarations.

The proposal implements the duty to cooperate in providing fishing vessels' data for: the investigation of incidents; cooperation related to the inclusion of a Union fishing vessel on the CCSBT Illegal Unreported and Unregulated (IUU) vessels list; reported cases of non-compliance; port inspection infringements.

The proposal also implements duties relating to monthly catch reports, and to annual and compliance reporting.

The delegated powers listed in the proposal include changes to the information provided for the CCSBT record of fishing vessels, time limits and periods related to:

- reporting for catch tagging forms;
- retention of CDS documents, and notification of transhipments;
- transhipment declarations;
- sending information concerning the IUU vessels list and investigation reports to the CCSBT Compliance Committee;
- information concerning the contact point for port inspections, and notification of inspection report delays;
- reporting of periods of by-catches; and
- deadlines for submission of annual reports.

Proposal for a

## REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

### laying down conservation and management measures for the Conservation of the Southern Bluefin Tuna

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the Common Fisheries Policy ('CFP'), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>2</sup>, is to ensure that the exploitation of living aquatic resources contributes to long-term environmental, economic and social sustainability.
- (2) The European Union has, by means of Council Decision 98/392/EC<sup>3</sup>, approved the United Nations Convention of 10 December 1982 on the Law of the Sea. By means of Council Decision 98/441/EC, the Union has approved the Agreement for the Implementation of that Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks<sup>4</sup>, which contain principles and rules with regard to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.
- (3) The Convention for the Conservation of Southern Bluefin Tuna ('the Convention'), which established the Commission for the Conservation of Southern Bluefin Tuna ('CCSBT') does not provide for the accession of regional economic integration organisations, such as the Union. To promote cooperation in the conservation and management of Southern bluefin tuna ('SBF'), the CCSBT has created the Extended

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<sup>1</sup> OJ

<sup>2</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>3</sup> Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

<sup>4</sup> Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).



Commission for the Conservation of Southern Bluefin Tuna ('Extended Commission'), in which the Union can participate as a member. Decisions adopted by the Extended Commission become decisions of the CCSBT at the end of the session of the meeting to which they were reported, unless the CCSBT decides to the contrary. members of the Extended Commission have the same obligations as members of the CCSBT, including compliance with the decisions of the CCSBT and the provision of financial contributions to the CCSBT.

- (4) Pursuant to Council Decision (EU) 2015/2437<sup>5</sup>, the Union is a member of the Extended Commission.
- (5) The CCSBT adopts annual conservation and management measures by way of resolutions that are binding on members of the Extended Commission, including on the Union.
- (6) Unlike in other Regional Fisheries Management Organisations ('RFMOs') in which the Union participates, the Union has no fishing vessels that target Southern bluefin tuna and it has reported only accidental by-catch of this species in the past and none since 2012. Nevertheless, it is still appropriate for the Union to comply with the relevant conservation and management measures adopted by the CCSBT related to the activities and characteristics of the Union fleet and in relation to the trade of Southern bluefin tuna.
- (7) The area of distribution of Southern bluefin tuna overlaps with the Convention areas of the Indian Ocean Tuna Commission, the Western and Central Pacific Tuna Commission and the International Commission for the Conservation of Atlantic Tunas, where the Union long-line fleet that targets tropical tunas and tuna-like species has reported limited amounts of by-catch of Southern bluefin tuna in the past.
- (8) This Regulation implements the relevant resolutions of the CCSBT adopted until 2020, except for measures which already form part of Union law. This Regulation covers only the CCSBT provisions applicable to the Union, notably taking into consideration the specificity of the Union fleet (no targeted fishery, exclusively accidental by-catch in the past and none since 2012, no transshipments or landing) and the trade of Southern bluefin tuna. In practice, most obligations will be only triggered if the Union fleet accidentally by-catches Southern bluefin tuna, which has not occurred since 2012, and retains those fish on-board, something that has not been reported to date.
- (9) To ensure compliance with the CFP, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) fishing. In particular, Council Regulation (EC) No 1224/2009<sup>6</sup> establishes a Union system for control, inspection and enforcement with a global and integrated approach so as to ensure compliance with all the rules of the

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<sup>5</sup> Council Decision (EU) 2015/2437 of 14 December 2015 on the conclusion, on behalf of the European Union, of the Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna (OJ L 366, 23.12.2015, p. 27).

<sup>6</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

CFP. Commission Implementing Regulation (EU) No 404/2011<sup>7</sup> lays down detailed rules for the implementation of Council Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008<sup>8</sup> establishes a Community system to prevent, deter and eliminate IUU fishing. Those regulations already include provisions covering a number of the measures laid down in CCSBT resolutions. It is therefore not necessary to include those provisions in this Regulation.

- (10) In accordance with Article 29(2) of Regulation (EU) No 1380/2013, the positions of the Union in RFMOs are to be based on the best available scientific advice so as to ensure that fishery resources are managed in accordance with the objectives of the CFP, in particular with the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield ('MSY'), and with the objective of providing conditions for economically viable and competitive fishing capture and processing industry and land-based fishing related activity.
- (11) In order to swiftly incorporate future CCSBT measures into Union law, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the information provided for in the CCSBT Record of Vessels, and time limits or periods related to reporting for catch tagging forms, retention of CDS documents, transmission of transshipment notifications and declarations, transmission of information to the CCSBT Compliance Committee concerning the IUU vessel list and investigation reports, transmission of information concerning point of contact for port inspections, and transmission of notification of delays in the submission of port inspection reports, transmission of by-catch report, and deadlines for the submission of annual reports.
- (12) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>9</sup> and delivered an opinion on ... .
- (13) It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>10</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>7</sup> Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system, for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

<sup>8</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

<sup>9</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

<sup>10</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

HAVE ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter*

This Regulation lays down provisions concerning management, conservation and control measures relating to by-catch of Southern bluefin tuna (*Thunnus maccoyii*) under the Convention for the Conservation of the Southern Bluefin Tuna.

*Article 2*  
*Scope*

This Regulation shall apply to Union fishing vessels carrying out fishing in the area of distribution of Southern bluefin tuna under the Convention for the Conservation of the Southern Bluefin Tuna and Member States importing, exporting or re-exporting Southern bluefin tuna.

*Article 3*  
*Definitions*

For the purposes of this Regulation, the following definitions apply:

- (a) ‘CCSBT’ means the Commission for the Conservation of Southern bluefin tuna;
- (b) ‘SBF’ means Southern bluefin tuna or fish products originating from Southern bluefin tuna;
- (c) ‘Convention’ means the Convention for the Conservation of the Southern Bluefin Tuna;
- (d) ‘CCSBT Record of Vessels’ means the record of vessels established by the CCSBT authorised to fish for or by-catch SBF;
- (e) ‘Union fishing vessel’ means any vessel flying the flag of a Member State, used or intended for use for the purposes of commercial exploitation of marine biological resources, including support vessels, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels;
- (f) ‘Transshipment’ means the unloading of all or any fishery products on board a fishing vessel to another fishing vessel;
- (g) ‘SBF tag’ means an external label attached to the whole SBF that contains information on the individual fish;
- (h) ‘CCSBT CDS’ means the specific catch documentation scheme for SBF established by the CCSBT comprising the catch monitoring form, catch tagging form and export or re-export form;
- (i) ‘Catch monitoring form’ means the CDS document that records information on the catch, transshipment, export, and import of SBF;
- (j) ‘Catch tagging form’ means the CDS document that records information on individual fish tagged;
- (k) ‘Importation’ means the introduction of SBF into the territory of the Union, including for transshipment purposes at ports in its territory;

- (l) 'Export or re-export form' means the CDS document that contains information on SBF already tracked on the catch monitoring form of an import that is, either in full or part, exported or re-exported;
- (m) 'Exportation' means any movement to a third country of SBF harvested by Union fishing vessels;
- (n) 'Re-exportation' means any movement from the territory of the Union of SBF that had been previously imported into the territory of the Union;
- (o) 'Whole SBF' means SBF which has not undergone filleting or loining;
- (p) 'Processed SBF' means SBF which has been undergone cleaning, gilling gutting, freezing removal of fins, operculae (gill plates/covers) and tail and removal of the head or parts of the head ;
- (q) 'SBF parts other than the meat' means the head, eyes, roe, guts and tails;
- (r) 'CCSBT Secretariat' means the Secretariat established by the CCSBT;
- (s) 'CCSBT Transshipment declaration' means Annex I to the CCSBT Resolution on Establishing a Program for Transshipment by Large-Scale Fishing Vessels<sup>11</sup>;
- (t) 'CCSBT conservation and management measures' means the resolutions and other binding measures adopted by the CCSBT;
- (u) 'Annual VMS summary report' means the document of Attachment A of CCSBT-CC/0910/06 where the relevant VMS information is provided<sup>12</sup>;
- (v) 'CCSBT Compliance Committee' means the subsidiary body of the CCSBT that monitors, reviews and assesses compliance with CCSBT conservation and management measures;
- (w) 'Draft CCSBT IUU vessel list' means the initial list drawn up by the CCSBT Secretariat.

#### *Article 4*

#### *General prohibition on the targeting of SBF*

The targeting of SBF by Union fishing vessels shall be prohibited. Any SBF retained on board of Union fishing vessels shall account exclusively for by-catch.

#### *Article 5*

#### *CCSBT Record of vessels*

1. Member States shall provide the Commission with the following information with respect to each Union fishing vessel authorised by the flag Member States to have SBF by-catch to be included in the CCSBT Record of Vessels:
  - (a) Lloyds/IMO Number;
  - (b) name of vessel(s), register number(s);
  - (c) previous name(s) (if any);
  - (d) previous flag(s) (if any);

<sup>11</sup>

[https://www.ccsbt.org/sites/default/files/userfiles/file/docs\\_english/operational\\_resolutions/Resolution\\_Transshipment.pdf](https://www.ccsbt.org/sites/default/files/userfiles/file/docs_english/operational_resolutions/Resolution_Transshipment.pdf)

<sup>12</sup>

<https://www.ccsbt.org/en/system/files/resource/en/4d9169c192044/cc06.pdf>

- (e) previous details of deletion from other registries (if any);
  - (f) international radio call sign(s) (if any);
  - (g) type of vessel(s), length overall and gross registered tonnage (GRT);
  - (h) name and address of owner(s);
  - (i) name and address of operator(s);
  - (j) gear(s) used; and
  - (k) time period authorised for fishing SBF and /or transshipping.
2. It shall be prohibited to retain on board, tranship or export SBF by Union fishing vessels not included in the CCSBT Record of Vessels.
  3. Member States shall indicate, when submitting their list of vessels according to paragraph 1, those vessels which are newly added and those which replace vessels currently on the list.
  4. Member States shall promptly notify the Commission of any modifications to the information provided under paragraph 1. The Commission shall forward that information to the CCSBT Secretariat without delay.
  5. Where a Union fishing vessel has been involved in IUU fishing activities, a Member State may only send to the Commission the information of paragraph 1 after receiving sufficient commitment from the owner of the vessel concerned that it will no longer conduct such activities.

*Article 6*  
*Tagging of SBF*

1. Where SBF by-caught by Union fishing vessels is intended for export or re-export, a SBF tag shall be attached to each whole SBF at the time of harvesting. In exceptional circumstances, where a tag becomes accidentally detached and cannot be reattached, a replacement tag shall be attached as soon as possible and no later than the time of transshipment or export.
2. Non-processed whole SBF may not be imported, exported, or re-exported without a SBF tag except where the tag is no longer required because further processing has occurred.
3. The SBF tag shall be attached to each individual fish while the fish carcass remains whole and shall include month, area, method of capture, and weight and length for each SBF.
4. Each SBF tag shall have a unique pre-recorded tag number in an easily readable form which shall include a unique flag state identifier and a fishing year identifier. SBF tags shall be able to be securely fastened to SBF, be non-reusable, tamper-proof and secure from counterfeiting or replication. SBF tags shall withstand at least minus sixty degrees Celsius temperatures, salt water, rough-handling and be food safe.
5. Flag Member States shall record the distribution of SBF tags to the vessels flying their flag and shall ensure that their vessels and operators, and the relevant authorities have reporting procedures and formats allowing for the collection of the required tagging information.

*Article 7*  
*Catch tagging forms*

1. Where SBF by-caught by Union fishing vessels is intended for export or re-export, a catch tagging form shall be filled in as soon as possible after the time of harvesting of individual SBF. Length and weight measurements shall be conducted before the SBF is frozen.
2. Where measurements cannot be accurately done on board the vessel, the measurements and the associated catch tagging form may be made at the time of transshipment, and in any case before any further transfer of the SBF.
3. Masters of Union fishing vessels shall provide the completed catch tagging forms to the authorities of the flag Member States. Member States shall submit the information in the catch tagging forms to the Commission on a quarterly basis. The Commission shall forward that information to the CCSBT Secretariat without delay.

*Article 8*  
*Trade of SBF*

1. All imports, exports and re-exports of SBF shall be accompanied by the CCSBT CDS documents and tags, as appropriate, as provided for in this Regulation.
2. The importation, exportation and re-exportation of SBF parts other than the meat is allowed without the export or re-export form, as appropriate.

*Article 9*  
*Imports of SBF into the Union*

1. SBF imported into the Union shall be accompanied by the catch certificate set out in Council Regulation (EC) No 1005/2008 and by the export or re-export form, as appropriate.
2. Member States shall not accept any consignment of SBF for import that is not accompanied by the required CCSBT CDS documents and tags, as appropriate.
3. Full or partial consignments of untagged whole unprocessed SBF shall not be accepted for import.

*Article 10*  
*Exports or re-exports of SBF*

1. Without prejudice to the validation of exportation of catches made by Union fishing vessels in accordance with Article 15(1) of Council Regulation (EC) No 1005/2008, exports or re-exports of SBF by Member States shall be accompanied by the export or re-export form, as appropriate.
2. Member States shall not validate any consignment of SBF for export or re-export that it is not accompanied by the CCSBT CDS documents and tags, as appropriate.
3. Full or partial consignments of untagged whole unprocessed SBF shall not be validated for export or re-export.

### *Article 11*

#### *Validation of CCSBT CDS documents issued by flag Member States or Member States*

1. The competent authorities of the flag Member State or Member State, as appropriate, shall verify the catch monitoring, catch tagging, export and re-export forms. They shall not validate any forms or CCSBT CDS documents that are incomplete or have incorrect information.
2. Flag Member States shall notify to the Commission their competent authorities for the validation of the catch certificates referred to in paragraph 1 where those authorities are different from the authorities referred to in Article 15(1) of Council Regulation (EC) No 1005/2008. The Commission shall transmit that information to the CCSBT Secretariat without delay.
3. Member States shall undertake an appropriate level of audit, including inspections of vessels, landings, and where possible markets, to the extent necessary to validate the information contained in the CDS documentation and report to the Commission details on the measures undertaken to ensure compliance with this paragraph.

### *Article 12*

#### *Verification of CCSBT CDS documents received by Member States*

1. Member States shall undertake an appropriate level of verifications, including inspections of vessels, landings, and where possible markets, to the extent necessary to validate the information contained in the CCSBT CDS documents. They shall not validate any forms or CCSBT CDS documents that are incomplete or have incorrect information.
2. Without prejudice to the verifications of Article 17 of Council Regulation (EC) No 1005/2008, Member States shall ensure that their competent authorities identify each consignment of SBF imported into, or exported or re-exported from, the Union and examine the CCSBT CDS documents for each consignment of SBF. The competent authorities may also examine the content of the consignment to verify the information contained in the CCSBT CDS document and in related documents and, where necessary, shall carry out verifications with the operators concerned.
3. Member States shall report to the Commission details on the measures undertaken to ensure compliance with this provision.
4. Each Member State shall, as soon as practicable, notify to the Commission of any consignments of SBF where there are doubts about the information contained in any CCSBT CDS documents or related documents, or incomplete, missing or non-validated CCSBT CDS documents. The Commission shall report that information to the CCSBT Secretariat without delay.

### *Article 13*

#### *Review and investigation of CCSBT CDS reports*

1. Where the Commission receives a report from the CCSBT Secretariat on the implementation of the CCSBT CDS provisions containing information to be reviewed by a Member State, it shall forward it without delay to the relevant Member State, which shall review the information and investigate any irregularities identified.

2. Each Member State shall cooperate and take all necessary steps to investigate matters related to the implementation of the CCSBT CDS and notify the Commission of the outcome of any such action.
3. Member States shall cooperate to ensure that CCSBT CDS documents are not forged and/or do not contain misinformation.

*Article 14*  
*Records of CCSBT CDS documents*

1. Member States shall retain all original CCSBT CDS documents, or scanned electronic copies of the original documents, received by them for a period of three years or longer in accordance with national rules.
2. Member States shall also retain a copy of any CCSBT CDS document issued by them for a period of three years or longer in accordance with national rules.
3. Copies of the documents referred to in paragraph 1 and 2, except the catch tagging form, shall be forwarded to the Commission without delay at the latest before the end of the subsequent quarter following the date where they were issued or received, for submission to the CCSBT Secretariat.

*Article 15*  
*Transshipment ports*

1. All transshipments of SBF shall take place in port.
2. Flag Member States shall designate ports of transshipment of SBF for vessels flying their flag and communicate with the designated port States to share relevant information required for effective monitoring.

*Article 16*  
*Transshipment notification*

1. Prior to transshipping, the master of the Union fishing vessel shall notify the following information to the port State authorities, at least 48 hours in advance or as specified by the port State authorities, or immediately after the end of fishing operations if the time to the port is less than 48 hours:
  - (a) the name of the Union fishing vessel and its number in the CCSBT record of vessels;
  - (b) the SBF product to be transhipped and its tonnage;
  - (c) the date and location of transshipment;
  - (d) the FAO area or subarea of the SBF by-catches.
2. The master of the Union fishing vessel shall, at the time of the transshipment, inform its flag Member State of the following:
  - (a) the SBF products and quantities involved;
  - (b) the date and place of the transshipment;
  - (c) the name, registration number and flag of the receiving carrier vessel, and its number in the CCSBT record of vessels authorised to receive transshipments;
  - (d) the FAO alpha-3 code, area or sub-area of the SBF catches.



*Article 17*  
*CCSBT Transshipment declaration*

1. The master of the Union fishing vessel involved in a transshipment of SBF shall complete and transmit to its flag Member State the CCSBT transshipment declaration, along with its number in the CCSBT record of fishing vessels.
2. By way of derogation from Article 22(1) of Council Regulation (EC) No 1224/2009, the CCSBT transshipment declaration shall be transmitted to the flag Member State at the latest 15 days after the transshipment.

*Article 18*  
*Vessels Monitoring System (VMS)*

1. When the Commission receives a request from a member or cooperating non-member of the Extended Commission to provide VMS data concerning a Union fishing vessel concerning an incident concerning a specific Union fishing vessel suspected to have operated in contravention of CCSBT conservation and management measures, the Commission shall forward it without delay to the relevant Member State.
2. The flag Member State of that vessel shall investigate the incident and provide details of the investigation to the Commission which will transmit without delay the information to the member or cooperating non-member which requested VMS data.
3. Flag Member States of vessels that have by-caught SBF on a given year shall provide the Annual VMS summary report for that year to the Commission 6 weeks in advance of the CCSBT Compliance Committee meeting for its transmission to the CCSBT Secretariat.

*Article 19*  
*Inclusion of a Union fishing vessel in the draft CCSBT IUU vessel list*

1. Where the Commission receives from the CCSBT Secretariat notification of the inclusion of a Union fishing vessel in the draft CCSBT IUU vessel list, it shall transmit the notification, including the supporting evidence and any other documented information provided by the CCSBT Secretariat, to the flag Member State for information and comments. The Commission shall examine and forward the information provided by the flag Member State related to the inclusion of the vessel in the Draft CCSBT IUU vessel list to the CCSBT Secretariat at least 6 weeks in advance of the CCSBT Compliance Committee meeting.
2. Once notified by the Commission, the authorities of the flag Member State shall notify without delay the owner of the fishing vessel of its inclusion in the Draft CCSBT IUU vessel list and of the consequences that may result from its eventual inclusion in the IUU vessel list adopted by the CCSBT.

*Article 20*  
*Alleged non-compliance status reported by the CCSBT Secretariat*

1. If the Commission receives from the CCSBT Secretariat any information indicating a possible non-compliance status with the Convention and/or CCSBT conservation and management measures by a Member State, the Commission shall transmit that information to the concerned Member State without delay.

2. The Member State shall provide the Commission with the findings of any investigation undertaken in relation to the possible non-compliance status and any actions taken to address it at least 8 weeks in advance of the annual meeting of the CCSBT Compliance Committee.

#### *Article 21*

#### *Points of contact and alleged infringements of CCSBT conservation and management measures following a port inspection by a CCSBT Member*

1. Port Member States shall designate a point of contact for the purpose of receiving port inspection reports from CCSBT members.
2. Member States shall transmit any changes to the designated point of contact to the Commission at least 21 days before the changes take effect. The Commission shall forward that information to the CCSBT Secretariat at least 14 days before such changes take effect.
3. If the point of contact designated by a Member State receives an inspection report from a CCSBT Member providing evidence that a fishing vessel flying the flag of that Member State has committed an infringement of the CCSBT conservation and management measures, the flag Member State shall promptly investigate the alleged infringement and notify the Commission of the status of the investigation, and of any enforcement action that may have been taken, to enable the Commission to inform the CCSBT Secretariat within three months of receipt of the notification by the Member State.
4. If the Member State cannot provide the Commission with a status report within six months of the receipt of the inspection report, it shall notify the Commission before the end of that six month period of the reasons why and of the date by which the status report will be submitted. The Commission shall transmit without delay the information regarding the status or delay of the investigation to the CCSBT Secretariat.

#### *Article 22*

#### *Monthly by-catch reporting*

Flag Member States whose flagged vessels have by-caught SBF, shall report to the Commission on the 15<sup>th</sup> of each month for the by-catch of the preceding month in accordance with Article 33 of Regulation (EC) No 1224/2009. The information to be reported to the Commission shall also include any discards and information on whether the discarded by-catch was live and vigorous, moribund or dead and the total cumulative SBF by-catch for the year. The Commission shall transmit that information to the CCSBT Secretariat no later than the last day of each month.

#### *Article 23*

#### *Annual reporting*

1. Member States shall report to the Commission at the latest six weeks before the annual meeting of the CCSBT Compliance Committee the following information:
  - (a) the details on any audits undertaken in accordance to Article 12 to validate the information contained in the CDS documentation;

- (b) the quantities and percentage of SBF transhipped in port during the previous fishing season and the list of the vessels flying their flag which have transhipped in port during the previous fishing season;
- (c) flag Member States whose flagged vessels have by-caught SBF shall report to the Commission on the annual by-catch for the year in accordance with Article 33 of Regulation (EC) No 1224/2009, including any discards and information on whether the discarded by-catch was live and vigorous, moribund or dead, and the Annual VMS summary report.

*Article 24*  
*Confidentiality*

In addition to the obligations laid down in Articles 112 and 113 of Regulation (EC) No 1224/2009, Member States and the Commission shall ensure confidential treatment of electronic reports and messages transmitted to and received from the CCSBT Secretariat.

*Article 25*  
*Delegation of power*

1. The Commission is empowered to adopt delegated acts amending or supplementing this Regulation in accordance with Article 26 concerning measures adopted by CCSBT in the following areas:
  - (a) targeting by Union fishing vessels of SBF of Article 4;
  - (b) the information to be provided for the inclusion of a vessel in the CCSBT Record of Vessels in Article 5;
  - (c) the time limits or periods related to reporting for catch tagging forms laid down in Article 7(3), retention of CDS documents laid down in Article 14(2), transmission of transshipment notifications and declarations laid down in Article 16(1), transmission of information to the CCSBT Compliance Committee concerning the IUU vessel list and investigation reports laid down in Article 19(1) and Article 20(1), transmission of information concerning point of contact for port inspections laid down in Article 21(2), transmission of by-catch report laid down in Article 22, and deadline for the submission of reports laid down in Article 23(1).
2. Delegated acts amending or supplementing this Regulation in accordance with paragraph 1 shall be strictly limited to the implementation in Union law of amendments to the CCSBT measures.

*Article 26*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 25 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation.
3. The delegation of power referred to in Article 25 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European

Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 25 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

*Article 27*

*Entry into force*

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*