



Council of the
European Union

Brussels, 30 October 2020
(OR. en)

12361/20

Interinstitutional File:
2020/0302(COD)

PECHE 348

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms. Martine DEPREZ, Director of the Registry
date of receipt:	27 October 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 670 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a catch documentation programme for bluefin tuna (<i>Thunnus thynnus</i>) and repealing Regulation (EU) No 640/2010

Delegations will find attached document COM(2020) 670 final.

Encl.: COM(2020) 670 final

Brussels, 27.10.2020
COM(2020) 670 final

2020/0302 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing a catch documentation programme for bluefin tuna (*Thunnus thynnus*) and
repealing Regulation (EU) No 640/2010**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The objective of the Common Fisheries Policy, as set out in Regulation (EU) No 1380/2013 of 11 December 2013 is to ensure an exploitation of living biological resources that is sustainable economically, environmentally and socially.

By Council Decision 98/392/EC of 23 March 1998, the Union approved the United Nations Convention on the Law of the Sea, which includes principles and rules on the conservation and management of marine living biological resources. As part of its wider international obligations, the Union participates in efforts to conserve fish stocks in international waters.

Pursuant to Council Decision 86/238/EEC of 9 June 1986, the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas ('the Convention') since 14 November 1997.

This Convention provides a framework for regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting up of an International Commission for the Conservation of Atlantic Tunas (the 'ICCAT').

The ICCAT has the authority to adopt decisions (Recommendations) on the conservation and management of the fisheries under its purview, which are binding for the Contracting Parties. Those Recommendations are essentially addressed to the Contracting Parties to the ICCAT Convention but also contain obligations for operators (e.g. vessel masters). ICCAT Recommendations enter into force 6 months following their adoption and, with respect to the Union, must be implemented in Union law as soon as possible.

This proposal establishes Union Bluefin tuna Catch Documentation Programme in order to implement conservation and management measures adopted by the International Commission for the Conservation of Atlantic Tunas relating to a Bluefin Tuna Catch Documentation Scheme and the mandatory use of the electronic Bluefin tuna catch document system with a view to identifying the origin of all bluefin tuna.

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

The bluefin tuna catch documentation programme has been regulated through:

- the catch documentation programme for bluefin tuna in Regulation (EU) 640/2010;

- **Consistency with other Union policies**

The plan is consistent with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 43(2) TFEU, as it sets out provisions necessary for the pursuit of the objectives of the common fisheries policy.

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

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

- **Proportionality**

The proposal will ensure that Union law, with regard to the application of the eBCD, and in particular all the rules and obligations of the eBCD system approved by the ICCAT is in line with the Union's international obligations and that the Union complies with the decisions taken under the ICCAT Convention to which the Union is a Contracting Party. This will be done without exceeding what is necessary to achieve the objective pursued.

- **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 transpose and implement existing ICCAT measures, which are binding upon the contracting parties. National experts and industry representatives from the EU countries were consulted both during the run-up to the ICCAT meetings at which these eBCD rules were adopted and throughout negotiations at the ICCAT Annual Meeting. Consequently, it was not considered necessary to hold a stakeholder consultation on this particular regulation.

- **Collection and use of expertise**

This is a transposition of a recommendation adopted by one Regional Fisheries Management Organisation (ICCAT).

- **Impact assessment**

Not relevant. This is a transposition of a recommendation directly applicable to Member States and operators.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT.

- **Fundamental rights**

This proposal has no consequences on the protection of the fundamental rights of the citizens.

4. BUDGETARY IMPLICATIONS

This proposal does not have 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**

(a) Bluefin tuna catch document and re-export certificate

The proposal establishes general provisions on the use of bluefin catch and re-export certificates and sets rules for the recording and validation of catch and subsequent trade events of bluefin tuna. Particular rules are set for tagged fish.

Recording and validation of catch and trade is performed through the electronic Bluefin tuna catch document system already used by Member States and operators. This electronic system is operated by ICCAT in its official languages (i.e. English, French and Spanish). Exceptionally, the electronic system can be replaced by paper documents (the BCD, Bluefin Tuna Catch Document), equivalent to the electronic system requirements. For that reason, the proposal contains references to ICCAT documents such as BCD definition and its content information, validation documents, and reporting documents.

(b) Verification, transmission of data and reporting

Additional provisions are established for verification before validation, transmission of data of eBCD users, use of paper eBCD in exceptional cases and annual reporting to ICCAT.

(c) Delegated powers

ICCAT rules governing the fishery of live bluefin tuna (operations related to catching, transfer, transport, caging, farming, harvesting and carrying-over) are highly dynamic, and the eBCD system needs to be adapted to follow any change in those rules. Due to the complexity of the eBCD system, outstanding technical issues need to be resolved on an ongoing basis and the solutions need to be uniformly applied by Member States.

Article 14 of this Regulation sets out a detailed list of cases where delegated powers are requested to address frequent changes to the recommendations adopted by ICCAT.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**establishing a catch documentation programme for bluefin tuna (*Thunnus thynnus*) and
repealing Regulation (EU) No 640/2010**

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 Committee¹,

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 Council², is to ensure an exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions.
- (2) The Union is a Contracting Party to the United Nations Convention of 10 December 1982 on the Law of the Sea approved by Council Decision 98/392/EC³, to the Agreement on the implementation of the provisions of that Convention relating to the conservation and management of straddling stocks and highly migratory fish stocks ratified by Council Decision 98/414/EC⁴ and to the Agreement to promote compliance with international

¹ OJ C.

² 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).

³ 98/392/EC: Council Decision 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.).

⁴ 98/414/EC: Council Decision 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.).

conservation and management measures by fishing vessels on the high seas accepted by Council Decision 96/428/EC⁵. In the framework of those international obligations, the Union participates in efforts made to ensure sustainable management of highly migratory fish stocks.

- (3) The Union is a Contracting Party to the International Convention for the Conservation of Atlantic Tunas pursuant to Council Decision 86/238/EEC⁶ (ICCAT Convention). The ICCAT Convention provides for a framework for regional cooperation on the conservation and management of tuna and tuna-like species in the Atlantic Ocean and adjacent seas through an International Commission for the Conservation of Atlantic Tunas ('ICCAT Commission'), and for the adoption of recommendations applicable in the ICCAT Convention area which become binding on the Contracting Parties, cooperating non-contracting Parties, entities and fishing entities ('CPCs').
- (4) Regulation (EU) No 640/2010 of the European Parliament and of the Council⁷ transposed into Union law ICCAT Recommendations [09-11] amending Recommendation [08-12] introducing catch documentation programme for Bluefin tuna;
- (5) As part of the measures to regulate stocks of bluefin tuna, to improve the quality and reliability of statistical data and in order to prevent, deter and eliminate illegal fishing, ICCAT adopted Recommendation [07-10]⁸, [08-12]⁹, [09-11]¹⁰, [11-20]¹¹, [18-13]¹² introducing the implementation of the Bluefin tuna Catch Documentation (BCD) scheme and Recommendation [10-11]¹³, [11-21]¹⁴, [12-08]¹⁵, [13-17]¹⁶, [15-10]¹⁷, [17-09]¹⁸, [18-12]¹⁹ developing and strengthening the implementation of the Bluefin Tuna Catch

⁵ 96/428/EC: Council Decision of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (OJ L 177, 16.7.1996, p. 24.).

⁶ 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).

⁷ Regulation (EU) No 640/2010 of the European Parliament and of the Council of 7 July 2010 establishing a catch documentation programme for bluefin tuna *Thunnus thynnus* and amending Council Regulation (EC) No 1984/2003 (O.J. L 194, 24.7.2010, p.1.)

⁸ Recommendation by ICCAT on an ICCAT Bluefin Tuna Catch Documentation Program.

⁹ Recommendation by ICCAT Amending Recommendation 07-10 on an ICCAT Bluefin Tuna Catch Documentation Program.

¹⁰ Recommendation by ICCAT amending the Recommendation 08-12 on an ICCAT bluefin tuna catch documentation program.

¹¹ Recommendation by ICCAT amending Recommendation 09-11 on an ICCAT bluefin tuna catch documentation programme.

¹² Recommendation by ICCAT replacing Recommendation 11-20 on an ICCAT bluefin tuna catch documentation programme.

¹³ Recommendation by ICCAT on an electronic bluefin tuna catch document programme (eBCD).

¹⁴ Recommendation by ICCAT amending the Recommendation 10-11 on an Electronic Bluefin Tuna Catch Document (eBCD) programme.

¹⁵ Recommendation by ICCAT supplementing the Recommendation on an Electronic Bluefin Tuna Catch Document (eBCD) programme.

¹⁶ Recommendation by ICCAT supplementing the Recommendation for an Electronic Bluefin Tuna Catch Document (eBCD) System.

¹⁷ Recommendation by ICCAT to clarify and amend aspect of ICCAT's Bluefin Tuna Catch Documentation Program to facilitate the application of the eBCD System.

¹⁸ Recommendation by ICCAT amending the Recommendation 15-10 on the application of the eBCD System.

¹⁹ Recommendation by ICCAT replacing Recommendation 17-09 on the application of the eBCD system.

Documentation by introducing a mandatory electronic document (eBCD) system. CPCs of ICCAT and Member States commenced the partial implementation of the eBCD system in June 2016. It is fully implemented since January 2017 and is being used by Member States.

- (6) Certain provisions of the ICCAT Recommendations are being amended frequently by ICCAT CPCs and are likely to be amended further in the future. Therefore, in order to swiftly incorporate future amendments to the ICCAT Recommendations 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 following aspects: mandatory use of eBCD and BCD, rules of Grouped BCD, validations of the BCD and eBCD, derogation deadline for tagging information in relation to minimum size under the Regulation (EU) 20.../...²⁰; recording and validation of catch and subsequent trades in the eBCD system, information concerning validation and points of contact, information concerning BCD documents or printed eBCD, reporting dates provided, as well as references to Annexes to ICCAT Recommendations.
- (7) Union legislation should merely implement the ICCAT Recommendations in order to place Union and third country fishermen on an equal footing and to ensure that the rules are fully accepted and implemented by all.
- (8) The delegated acts provided for in this Regulation should be without prejudice to the implementation of future changes to ICCAT Recommendation and their transposition into Union law through the ordinary legislative procedure.
- (9) In order to swiftly implement into Union law future amendments to the ICCAT Recommendations, 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 amending this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations are conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making²¹. 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.
- (10) Regulation (EU) No 640/2010 should therefore be repealed, as this Regulation transposes new ICCAT measures for the bluefin tuna catch documentation programme,

²⁰ Regulation (EU) 20.../.... of the European Parliament and of the Council of20.. establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean, amending Regulations (EC) No 1936/2001, (EU) 2017/2107, and (EU) 2019/833 and repealing Regulation (EU) 2016/1627.

²¹ OJ L 123, 12.5.2016, p. 1.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes a Union Bluefin tuna Catch Documentation Programme in order to implement conservation and management measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) of Bluefin Tuna Catch Documentation Scheme and the mandatory use of the electronic Bluefin tuna catch document system with a view to identifying the origin of all bluefin tuna.
2. This Regulation does not apply to domestic trade, export, import and re-export of fish parts other than the meat, inter alia, heads, eyes, roes, guts and tails.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

1. ‘BCD’ means Bluefin tuna catch document as provided for in the format Annex 2 of ICCAT Recommendation [18-13];
2. ‘Bluefin tuna’ means fish of the species *Thunnus thynnus* falling within the codes of the Combined Nomenclature of Annex I to Council Regulation (EEC) No 2658/87²²;
3. ‘the Convention’ means the International Convention for the Conservation of Atlantic Tunas;
4. ‘Convention area’ means the geographical area covered by the ICCAT measures as set out in Article 1 of the Convention;
5. ‘Domestic trade’ means:
 - (a) trade, in one Member State or between two or more Member States, in bluefin tuna caught in the Convention area by a Union catching vessel or trap, and which is landed in the territory of the Union; and
 - (b) trade, in one Member State or between two or more Member States, in farmed bluefin tuna caught in the Convention area by a Union catching vessel, and which is caged in a farm established in the territory of the Union;

²² Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff, OJ L 256, 7.9.1987, p. 1.

6. ‘Import’ means the introduction into the territory of the Union, including for caging, fattening, farming or transshipment purposes, of bluefin tuna caught in the Convention area by a third country catching vessel or trap;
7. ‘Export’ means any movement to a third country of bluefin tuna caught in the Convention area by a Union catching vessel or trap, including from the territory of the Union, from third countries or from fishing grounds;
8. ‘Re-export’ means any movement from the territory of the Union of bluefin tuna which had been previously imported into the territory of the Union;
9. ‘Trap Member State’ means the Member State where the trap is established;
10. ‘Farm Member State’ means the Member State where the farm is established;
11. ‘CPCs’ means Contracting Parties to Convention and cooperating non-contracting parties, entities or fishing entities.

CHAPTER II BLUEFIN TUNA CATCH DOCUMENT

Article 3 **General provisions**

1. The electronic Bluefin tuna Catch Document (‘eBCD’) system shall be used for any landing, transfer, transshipment, cage, harvest, domestic trade, import, export or re-export of bluefin tuna. Paper BCDs can be used exceptionally as provided for in Article 11.
2. A BCD shall be completed for each bluefin tuna caught by a fishing vessel or trap, transferred, landed or transhipped at ports by fishing vessels or traps, or caged or harvested by farms.
3. Each lot of bluefin tuna domestically traded, imported into or exported or re-exported from the territory of the Union shall be accompanied by a BCD validated by the competent authority, except in cases where Article 4(4) applies, and, as applicable, an ICCAT transfer declaration or a validated Bluefin Tuna Re-export Certificate (‘BFTRC’), as applicable. Each lot of bluefin tuna shall only contain bluefin tuna products of the same presentation and originating in the same relevant geographical area and the same fishing vessel, or group of fishing vessels, or the same trap.
4. It shall be prohibited to land, transfer, delivery, harvest, trade domestically, import, export or re-export bluefin tuna without a completed and validated BCD or BFTRC.
5. Each BCD shall have a unique document identification number. Document numbers shall be specific to the flag or trap Member State.
6. At the time of caging, relevant BCDs may be grouped as a “Grouped BCD” with a new BCD number in the following cases, provided that all the fish is caged in the same farming cage and on the same day:

- (a) Multiple catches made by the same vessel; and
 - (b) Catches made by Joint Fishing Operations (JFO).
7. The Grouped BCD shall replace all the equivalent original BCDs and be accompanied by the list of all the associated BCD numbers. The copies of such associated BCDs shall be made available to Member States or CPCs control authorities, upon request.
 8. Bluefin tuna that are caught as by-catch by vessels not authorised to fish actively for bluefin tuna pursuant to Regulation (EU) 20...²³ [BFT] may be traded. Member States authorities, port authorities and authorised self-registration by the master or representative of the vessel shall facilitate the master or representative of the vessel in accessing the eBCD system, including by way of their national registration number. Flag Member State of the vessels concerned are not required to submit a list of such vessels to the Commission.
 9. Bluefin tuna that die during the transfer, towing, or caging operations referred to in Articles 39 to 54 of Regulation (EU) 20... [BFT] prior to harvesting may be traded by the purse seine vessel, support vessel, and farm representatives, where applicable.
 10. Bluefin tuna harvested in sport and recreational fisheries for which sale is prohibited are not subject to this Regulation and do not need to be recorded in the eBCD system.

Article 4 **Validation**

1. Catching vessel masters, trap operators, farm operators, sellers, exporters or their authorised representative, shall complete the BCD by providing the required information and shall request its validation in accordance with paragraph 2 in respect of each bluefin tuna caught, landed, caged, harvested, transhipped, domestically traded or exported.
2. The BCD shall be validated by a competent authority of the flag state of the vessel, trap or farm state that caught or harvested the bluefin tuna, or of the Member State of establishment of the seller or exporter that domestically traded or exported the bluefin tuna.
3. Member States shall validate the BCD for all bluefin tuna products only when:
 - (a) all the information contained in the BCD has been verified as accurate;
 - (b) the accumulated validated amounts are within their quotas or catch limits of each management year, including, where appropriate, individual quotas allocated to catching vessels or traps; and
 - (c) the products comply with other relevant ICCAT provisions of the conservation and management measures.

²³ Regulation (EU) 20.../... of the European Parliament and of the Council of20.. establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean, amending Regulations (EC) No 1936/2001, (EU) 2017/2107, and (EU) 2019/833 and repealing Regulation (EU) 2016/1627 [proposal adopted with co-legislators].

4. Validation under paragraph 2 shall not be required where all bluefin tuna available for sale are tagged, in accordance with Article 6(4), by the flag or trap Member State that fished them.
5. Where the bluefin tuna quantities caught and landed are less than 1 metric ton or three fish, the logbook or the sales note may be used as a temporary BCD, pending the validation of the BCD within seven days and prior to export.
6. A validated BCD shall include, as appropriate, the information set out in Annex 1 of ICCAT Recommendation [18-13]. Instructions for the issuing, numbering, completion and validation of the catch document are set out in Annex 3 of ICCAT Recommendation [18-13].
7. The buyer information in the trade section shall be entered into the eBCD system prior to the validation. The trade section of an eBCD shall be validated prior to export.
8. Export from the Member States shall take place only if the previous trade between Member States has been properly recorded, and such export shall continue to require validation in the eBCD system in accordance with paragraphs 1 to 5.

Article 5

Recording and validation of catch and subsequent trades in the eBCD system

1. Following the recording and validation of catch and first trade in the eBCD in accordance with Article 4 of this Regulation, information on the internal sales of bluefin tuna within one Member State shall be recorded in the eBCD. Validation of those internal sales is not required.
2. Following the recording and validation of catch and first trade in the eBCD, the domestic trade between Member States shall be completed in the eBCD system by the seller in accordance with Article 4.
3. The competent authority shall validate domestic trade of “gilled and gutted” (GG), “dressed” (DR), and “Round” (RD) product forms. However, by way of derogation from Article 4, validation is not required:
 - (a) where domestic trade of bluefin tuna is in “fillets” (FL) or “other, specified” (OT) product forms listed on the eBCD;
 - (b) when the product referred to under point (a) (FL and OT) is packaged for transport; in this case the associated eBCD number shall be written legibly and indelibly on the outside of any package containing any part of the tuna except for exempted products specified in Article 1(2);
 - (c) for FL or OT products, subsequent domestic trade to another Member State shall only take place when the trade information from the previous Member State has been recorded in eBCD system.
4. The derogation provided for in the second sentence of paragraph 3 is applicable until 31 December 2020. Member States shall report to the Commission on the implementation of this derogation by 31 December 2020. This report shall include information on the

verification by the Member States provided for in Article 9, the outcomes of that verification and data about the concerned trade events, including relevant statistical information including the amount of Bluefin tuna and number of trades covered by this derogation.

5. The trade of live bluefin tuna including all trade events to and from bluefin farms shall be recorded and validated in the eBCD system in accordance with the provisions of this Regulation, unless otherwise specified.
6. The validation of sections 2 (catch) and 3 (live trade) in the eBCD may be completed simultaneously in derogation from Article 3(3) of this Regulation.
7. The amending and re-validation of sections 2 and 3 in the eBCD as required by Article xx of Regulation (EU) 20../.. [BFT] related to the use of stereoscopic camera systems may be completed following caging operation.

Article 6 **Tagging**

1. Member States may require their catching vessels or traps to affix a tag to each bluefin tuna preferably at the time of kill, but no later than the time of landing ('tagging programme'). Tags shall have unique Member State specific numbers and be tamper proof. The tag numbers shall be identical to those of the eBCD.
2. Member States concerned shall send a summary of the implementation of the tagging programme to the Commission by 30th of April each year in respect of the preceding year. Any subsequent changes to a tagging programme shall also be sent to the Commission. The Commission shall forward the summaries to the ICCAT Secretariat.
3. The use of such tags shall only be authorised when the accumulated catch amounts are within Member States' quotas or catch limits of each management year, including, where appropriate, individual quotas allocated to vessels or traps.
4. For the purposes of Article 4(4), the commercial tagging programs of the flag Member State for the vessel or trap that harvested the bluefin tuna under which the fish are tagged shall provide at least for the following:
 - (a) all bluefin tuna in the eBCD concerned are individually tagged;
 - (b) information concerning the tag includes:
 - identification of the catching vessel or trap;
 - date of capture or landing;
 - the area of harvest of the fish in the shipment;
 - the gear used to catch the fish;
 - the type of product and individual weight of the tagged bluefin tuna;
 - information on the exporter and importer (where applicable);

- the point of export (where applicable).
- 5. By way of derogation to point (v) of paragraph 4(b), for those fisheries subject to the derogations as to minimum size under Regulation (EU) 2017/2465 [BFT], Member States may instead provide the approximate weight of individual fish within the catch upon offloading, which shall be determined through representative sampling until 31 December 2020.
- 6. Where Member States apply the derogation provided for in subparagraph 5, they shall provide a report on the implementation of that derogation to the Commission.
- 7. The information on tagged fish is compiled by the responsible Member State.
- 8. The Commission shall compile the information on tagged fish received from Member States and shall transmit it to ICCAT in the format of the Union implementation report.

CHAPTER III BLUEFIN TUNA RE-EXPORT CERTIFICATE

Article 7 **General provisions**

1. Each Member State shall ensure that each lot of bluefin tuna which is re-exported from its territory is accompanied by a validated Bluefin Tuna Re-export Certificate ('BFTRC').
2. Paragraph 1 shall not apply in cases where bluefin tuna is imported live.
3. The operator responsible for the re-export shall fill the BFTRC and shall request its validation for the lot of bluefin tuna to be re-exported. The BFTRC filled shall be accompanied by a copy of the validated BCD(s) relating to the bluefin tuna products previously imported.

Article 8 **Re-export validation**

1. The BFTRC shall be validated by the competent authority of the Member State from which territory the lot is re-exported.
2. The competent authority shall validate the BFTRC for all bluefin tuna product, provided:
 - (a) all the information contained in the BFTRC has been verified as accurate;
 - (b) the corresponding validated BCD(s) had been accepted for the importation of the products declared on the BFTRC;
 - (c) the products to be re-exported are wholly or partly the same product on the validated BCD(s); and
 - (d) a copy of the BCD(s) is attached to the validated BFTRC.

3. The validated BFTRC shall include the information set out in Annexes 4 and 5 to ICCAT Recommendation [18-13].

CHAPTER IV VERIFICATION

Article 9 **Verification**

1. Member States shall ensure that their competent authorities identify each lot of bluefin tuna landed in, domestically traded in, imported into or exported or re-exported from their territory, and request and examine the validated BCD(s) and related documentation of each lot of bluefin tuna.
2. The competent authorities may also examine the content of the lot to verify the information contained in the BCD and in related documents and, where necessary, shall carry out verifications with the operators concerned.
3. If, as a result of examinations or verifications carried out pursuant to paragraphs 1 and 2, doubts arise regarding the information contained in a BCD, the Member State on whose territory the final importation took place and the Member state or CPC whose competent authorities validated the BCD(s) or BFTRCs shall cooperate to resolve such doubts.
4. If a Member State identifies a lot with no BCD, it shall notify the findings to the delivering Member State or the exporting CPC and, where known, the flag Member State or the flag CPC.
5. Member States shall not release the lot for domestic trade, import or export, or, in the case of live bluefin tuna destined to farms, accept the transfer declaration until the examinations or verifications referred to in paragraphs 1 and 2 have been carried out and confirm compliance of the BFT lot with the requirements of this Regulation and any other applicable Union law.
6. Domestic trade, import, export or re-export of the bluefin tuna shall be prohibited where a Member State, having carried out the examination or verifications referred to in paragraphs 1 and 2 and in cooperation with the validating authorities concerned, determines that the corresponding BCD or BFTRC is invalid.

CHAPTER V TRANSMISSION OF DATA

Article 10 **Registration in the eBCD system, notification and verification of information**

1. Member States are responsible for ensuring that their users are registered in the eBCD system.
2. Where a Member State validates BCDs in respect of its flag catching vessels, traps or farms, it shall notify to the Commission, the Government validation authorities or other

authorized individuals or institutions responsible for validating and verifying BCDs or BFRCs every time there is a change in the following information:

- (a) the name and full address of the organisation;
 - (b) the name and title of the validating officials who are individually empowered;
 - (c) a sample form of document;
 - (d) a sample impression of stamp or seal; and
 - (e) as appropriate, tag samples.
3. The notification provided for in in paragraph 2 shall indicate the date from which the change is applicable. A copy of the provisions adopted in national law for the purpose of implementing the Bluefin tuna Catch Documentation Programme shall be communicated with the initial notification, including procedures to authorise non-governmental individuals or institutions. Updated details on validating authorities and national provisions shall be communicated to the Commission in a timely fashion.
4. Member States shall notify the Commission by electronic means of the points of contact that should be informed if questions arise in relation to BCDs or BFTRCs, and in particular, the name and full address of the organisation(s).
5. The Commission shall without delay notify the information provided for in paragraphs 2 to 4 to the ICCAT Secretariat.
6. Member States shall verify the information concerning the validating authorities notified to ICCAT and published on a publicly accessible website held by the ICCAT Secretariat to help their authorities to verify the validation of BCDs and BFTRCs.

Article 11

Paper BCD documents or printed eBCDs

1. Paper BCD documents or printed eBCDs may be used in the following cases:
- (a) landings of quantities of bluefin tuna less than one metric ton or three fish. Such paper BCDs shall be converted to eBCDs within a period of seven working days or prior to export, whichever is first;
 - (b) bluefin tuna caught prior to 1 January 2017;
 - (c) as a back-up in the limited event that technical difficulties with the system arise that preclude a Member State from using the eBCD system, following the procedures as set forth in Annex 3 of ICCAT Recommendation [18-12]. Delays by Member States in taking necessary actions, such as providing the data necessary to ensure the registration of users in the eBCD system or other avoidable situations, do not constitute an acceptable technical difficulty;
 - (d) trade of Pacific tuna;

- (e) trade between the European Union and non-CPCs where access to the eBCD system through the Secretariat is not possible or is not timely enough to ensure the trade is not unduly delayed or disrupted.
- 2. The use of a paper BCD document referred to in paragraph 1 may not be invoked by a Member State or CPCs as a reason to delay or deny import of a bluefin tuna shipment, provided it comply with this Regulation. Printed eBCDs that are validated in the eBCD system satisfy the validation requirement stipulated in this Regulation.
- 3. Flag or trap Member State shall provide BCD forms only to catching vessels and traps authorized to fish bluefin tuna in the Convention area, including as by-catch. Such forms are not transferable.
- 4. Paper copies of eBCDs shall follow each part of split lots or processed product, using the unique document number of the eBCD to link them.

Article 12

Communication and conservation of paper validated documents

- 1. Except in cases where Article 4(4) applies, Member States shall communicate a copy of all validated BCDs or BFTRCs to:
 - (a) the Commission;
 - (b) the competent authorities of the Member State or CPC where the bluefin tuna will be domestically traded, or transferred into a cage or imported; and
 - (c) the ICCAT Secretariat.
- 2. Member States shall make the communication provided for in Paragraph 1 as soon as possible and in any event within five working days of the date of validation, or before the end of the transportation where the expected duration of the transportation should not take more than five working days.
- 3. Member States shall keep copies of documents issued or received for at least two years.

Article 13

Annual report

- 1. By 15 August of each year, Member States shall provide the Commission with a report comprising the information described in Annex 6 of ICCAT Recommendation [18-13], covering the period from 1 January to 31 December of the preceding year.
- 2. Reports generated from the eBCD system shall be used to fulfil the annual reporting requirements. Member States shall provide in their annual report elements described in Annex 6 to ICCAT Recommendation [18-13] that cannot be produced from the eBCD system.
- 3. The Commission shall draw up the Union's annual report based on the information received from Member States in accordance with paragraphs 1 and 2 and communicate it to the ICCAT Secretariat by 15 September of each year.

CHAPTER VI FINAL PROVISIONS

Article 14 ***Procedure for amendments***

1. The Commission is empowered to adopt delegated acts, in accordance with Article 15, amending this Regulation to adapt it to measures adopted by ICCAT that bind the Union and its Member States concerning:
 - (a) mandatory use of eBCD and BCD pursuant to Article 3(1) and (2);
 - (b) rules of BCD pursuant to Article 3(6);
 - (c) validations of the BCD and eBCD pursuant to Article 4;
 - (d) recording and validation of catch and subsequent trades in the eBCD system pursuant to Article 5;
 - (e) the derogation deadline referred to in Article 5(4) and Article 6(5);
 - (f) information concerning validation and points of contact pursuant to Article 10(2);
 - (g) information concerning BCD documents or printed eBCD pursuant to Article 11(1);
 - (h) reporting dates referred to in Article 5(4), Article 6(2) and Article 13(1) and (2);
 - (i) references to Annexes of ICCAT Recommendations as provided for in Article 2(1), Article 4(6); Article 8(3); Article 11(1)(c) and Article 13(1) and (2).
2. Amendments made pursuant to paragraph 1 shall be strictly limited to the implementation into Union law of amendments to ICCAT Recommendations.

Article 15 ***Exercise of the delegation***

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 14 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 14 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 simultaneously notify the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 14 shall enter into force only where no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of the 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 two months at the initiative of the European Parliament or of the Council.

Article 16

Repeal

Regulation (EU) No 640/2010 is repealed.

Article 17

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