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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	4 November 2022
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2022) 563 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)

Delegations will find attached document COM(2022) 563 final.

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2022/0348 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal aims to implement the conservation, management and control measures adopted under the Southern Indian Ocean Fisheries Agreement (SIOFA) in EU law. The SIOFA is the regional fisheries management organisation (RFMO) responsible for managing fishery resources in the SIOFA's Area of Application.

The annual Meeting of the Parties to the SIOFA has a mandate to adopt conservation and management measures (CMMs) for the fisheries within its purview. These CMMs are binding on the SIOFA's Contracting Parties, Participating Fishing Entities and Cooperating non-Contracting Parties (together CCPs). The EU has been a Contracting Party to the SIOFA since 2008. It currently has one active fishing vessel in the SIOFA's Area of Application. That vessel must comply with the SIOFA's CMMs.

Under Article 8(3) of the SIOFA, CMMs adopted by the Meeting of the Parties are binding on CCPs, and each CCP is required to take all action necessary to ensure enforcement of and compliance with such measures. On behalf of the EU, the European Commission draws up annual negotiating guidelines on the basis of a five-year EU position established by Council decision and on scientific advice. In line with the EU position, these guidelines are presented, discussed and endorsed at the Council working party. To take account of real-time developments, they are further adjusted at coordination meetings with Member States held on the sidelines of the Meeting of the Parties.

All SIOFA measures are binding if no objection is raised or if any objections are subsequently withdrawn. The objection procedure is governed by Article 218(9) of the Treaty on the Functioning of the European Union (TFEU), as SIOFA measures have legal effect (i.e. they become binding on Contracting Parties). Before deciding to object to a measure, the Commission asks the Council to endorse the decision to object.

SIOFA measures are mainly aimed at CCPs, but these measures also impose obligations on operators (e.g. vessel masters).

This proposal covers the measures that the Meeting of the Parties has adopted since 2016, as amended (in some cases) at its annual meetings. As soon as they enter into force, the EU must ensure compliance with these measures, as international obligations. This proposal is designed to implement current SIOFA measures and to set up a mechanism for implementing future measures. This proposal takes into account fishing undertaken by EU vessels in the SIOFA's Area of Application using handlines and demersal longlines.

It takes an average of 18 months to complete the legislative process of implementing measures adopted by RFMOs in EU law, from the first draft Commission proposal to the adoption of a final act by the European Parliament and the Council. This proposal aims to ensure that the EU can quickly: (i) implement measures that benefit the EU fleet; (ii) ensure a level playingfield for operators; and (iii) further support the long-term sustainable management of stocks.

In order to swiftly implement SIOFA rules, this proposal first provides for delegated powers to be granted to the Commission under Article 290 TFEU and to cater for amendments to SIOFA measures and ensure that EU fishing vessels are on an equal footing with those of other Contracting Parties. Delegated powers are proposed for : (i) the information required for vessel authorisations; (ii) changes of type of fishing or fishing gear; (iii) number of catch/recovery of Vulnerable Marine Ecosystems (VMEs) indicator units, and distances within which to cease bottom fishing where evidence of a VME is encountered above threshold levels within the course of fishing operations; scientific observer coverage for bottom fishing and introduction of an electronic observer programme; (iv) measures for the toothfish fishery in the Del Cano Rise and Williams Ridge areas; and (v) changes to Annexes to this proposal.

Second, this proposal introduces dynamic references to the CMMs to be used by Member States. These documents are already in use and known by Member States' administrations, who must ensure their implementation. The Commission sends updated versions of these documents to Member States after new versions are adopted by the SIOFA.

Third, to swiftly implement SIOFA rules, this proposal provides dynamic references to SIOFA documents that are already used by the Union fleet and publicly available on the SIOFA website. These compulsory documents include SIOFA reporting formats or data exchanges documents related to the entry to and exit from particular areas, the start and end points of setting fishing gear, transshipment and transfer operations, and the sighting of third country vessels. As these requirements and templates change from time to time and there is currently only one Union fishing vessel active in the fisheries managed by the SIOFA, it is appropriate that the requirements and templates be provided by Member States having fishing opportunities for SIOFA fishery resources to their fishing vessels when issuing fishing authorisations. Dynamic references to these documents are provided in this Regulation.

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

This proposal supplements and is consistent with other EU law in this area.

In particular, it is consistent with Part VI (External policy) of Regulation (EU) No 1380/2013[1] on the Common Fisheries Policy (CFP), which requires the EU to conduct its external fisheries in accordance with its international obligations and to base its fishing activities on regional fisheries cooperation.

The proposal supplements Regulation (EU) 2017/2403[2] 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. The proposal also supplements Council Regulation (EC) No 1005/2008[3] on illegal, unreported and unregulated fishing.

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1 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).

2 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).

3 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).

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

- **Consistency with other EU 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 for the pursuit of the objectives of the CFP.

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

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

- **Proportionality**

This proposal will ensure that EU law is in line with international obligations adopted by the Meeting of the Parties. This proposal will also ensure that the EU complies with decisions taken by the SIOFA to which it is a Contracting Party. This proposal does not exceed what is necessary to achieve these objectives.

- **Choice of the instrument**

The instrument chosen is a Regulation.

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

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

Not relevant.

- **Stakeholder consultations**

This proposal aims to implement SIOFA measures that are binding on CCPs. National experts and industry representatives from the Member States were consulted both during the run-up to the Meeting of the Parties at which the measures were adopted, and throughout negotiations at such meetings. Consequently, the Commission did not consider it necessary to hold a stakeholder consultation on this proposal.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

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

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT.

- **Fundamental rights**

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

4. BUDGETARY IMPLICATIONS

There are no budgetary implications.

5. OTHER ASPECTS

- **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**

Chapter I contains general provisions on the proposal's subject matter and scope. It also sets out definitions as well as provisions for vessel authorisations and the issuing of fishing authorisations.

Chapter II deals with bottom-fishing measures, including: (i) effort limitations and general measures; (ii) measures designed to protect vulnerable marine ecosystems in the SIOFA's Area of Application; and (iii) scientific observer coverage. It also includes specific measures for the toothfish fishery in the Del Cano Rise and Williams Ridge areas.

Chapter III lays down measures to protect marine species, including on: (i) prohibiting large-scale pelagic driftnets and deepwater gillnets; (ii) targeting deep-sea sharks; and (iii) mitigating seabird bycatch.

Chapter IV sets out monitoring and control measures including rules for : (i) a vessel monitoring system (VMS); (ii) entry-exit reports; (iii) fishing-vessel documents and marking; (iv) the retrieval of abandoned, lost or otherwise discarded fishing gear; (v) discharge of plastics; and (vi) at sea transshipments and transfers, their monitoring in port, and related reporting. This chapter also includes labelling rules for frozen products of fishery resources, and requirements for scientific observer programmes.

Chapter V sets out rules on control of third country vessels in Member State ports and in the high seas: (i) sightings and identifications of vessels that are not of the SIOFA Contracting

Parties, Participating Fishing Entities or Cooperating Non-Contracting Parties (non-CCP) vessels; and (ii) port measures and inspections.

Chapter VI deals with enforcement, including : (i) high seas boarding and inspection, including the definition of serious violations and related enforcement; and (ii) illegal, unreported and unregulated fishing.

Chapter VII covers data collection and reporting, provision of scientific observer data, and other reporting.

Chapter VIII contains final provisions on alleged non-compliance reported by the SIOFA, confidentiality, delegation of powers and the exercise of such delegation.

2022/0348 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)

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[1],

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[2] of the European Parliament and of the Council, is to ensure 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[3], approved the United Nations Convention of 10 December 1982 on the Law of the Sea. By means of Council Decision 98/414/EC[4], 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, 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.

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1 OJ C , , p. .

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 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).

4 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).

(3) Pursuant to Council Decision 2008/780/EC of 29 September 2008[5], the Union approved the Southern Indian Ocean Fisheries Agreement (SIOFA).

(4) The Contracting Parties to the SIOFA meet periodically in the 'Meeting of the Parties' to consider matters pertaining to the implementation of the Agreement and to make all decisions relevant thereto.

(5) The Meeting of the Parties adopts conservation and management measures (CMMs) that are binding on the Contracting Parties, Participating Fishing Entities and Cooperating non-Contracting Parties to the SIOFA, including on the Union. This Regulation implements into Union law the CMMs adopted between 2016 and 2022.

(6) 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[6] 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 CFP. Commission Implementing Regulation (EU) No 404/2011[7] lays down detailed rules for the implementation of Council Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008[8] establishes a Community system to prevent, deter and eliminate IUU fishing. It is therefore not necessary to include the CMMs covering those provisions in this Regulation.

(7) In accordance with Article 29(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, the positions of the Union in regional fisheries management organisations 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 an economically viable and competitive fishing, capture and processing industry and land-based fishing related activity.

(8) In order to implement swiftly into Union law future CMMs amending or supplementing the ones established in this Regulation, 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 provisions

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5 Council Decision 2008/780/EC of 29 September 2008 on the conclusion, on behalf of the European Community, of the Southern Indian Ocean Fisheries Agreement (OJ L 268, 9.10.2008, p 27).

6 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).

7 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).

8 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).

concerning: (i) the information required for vessel authorisation; (ii) changes of type of fishing or fishing gear; (iii) number of catch/recovery of Vulnerable Marine Ecosystems (VMEs) indicator units, and distances within which to cease bottom fishing where evidence of a VME is encountered above threshold levels within the course of fishing operations; scientific observer coverage for bottom fishing and introduction of an electronic observer programme; (iv) measures for the toothfish fishery in the Del Cano Rise and Williams Ridge areas; and (v) changes to Annexes to this Regulation.

(9) In addition, this Regulation includes dynamic references to CMMs that are to be used by Member States, in order for a reference to a SIOFA document to include a reference to any subsequent amendments of that document.

(10) The CMMs also prescribe compulsory use by operators of reporting formats or data exchanges related to the entry to and exit from particular areas, the start and end points of setting fishing gear, transshipment and transfer operations, and the sighting of third country vessels. These data requirements and templates are already used by the Union fleet and publicly available on the SIOFA website. As these requirements and templates are amended from time to time and there is currently only one Union fishing vessel active in the fisheries managed by the SIOFA, it is appropriate that the requirements and templates be provided by Member States having fishing opportunities in the SIOFA Area to their fishing vessels when issuing fishing authorisations. Dynamic references to these documents are provided in this Regulation, in order for a reference to a SIOFA document to include any subsequent amendments.

(11) 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[9]. 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.

(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[10], and delivered formal comments on []. Personal data processed in the framework of this Regulation should be treated in accordance with the applicable provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council[11] and Regulation (EU) 2018/1725. In order to ensure the fulfilment of obligations under this Regulation, the personal data should be stored for a period of 10 years. In the event

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9 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).

10 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).

11 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

that the personal data in question are needed for the follow-up on an infringement, an inspection or judicial or administrative procedures, it is possible to store those data for a period exceeding 10 years, but no longer than 20 years.

(13) The delegation of powers provided for in this Regulation should be without prejudice to the implementation of future CMMs into Union law through the ordinary legislative procedure.

HAVE ADOPTED THIS REGULATION:

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject matter

This Regulation lays down provisions concerning management, conservation and control measures relating to fishing in the Area covered under the Southern Indian Ocean Fisheries Agreement[12] (SIOFA).

Article 2
Scope

This Regulation shall apply to:

(1) Union fishing vessels undertaking fishing activities in the Area;

(2) Union fishing vessels transshipping fishery resources harvested in the Area;

(3) Union fishing vessels undertaking at sea transfer operations of crew, gear or any other supplies, as an unloading or receiving vessel, where either of the vessels involved in the transfer has undertaken fishing activities or intends to undertake fishing activities in the Area;

(4) Third country fishing vessels requesting access to, or being the object of an inspection in, Union ports and carrying fishery resources harvested in the Area.

Article 3
Definitions

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

(1) 'The Agreement' means the Southern Indian Ocean Fisheries Agreement[13];

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[12] Council Decision 2008/780/EC of 29 September 2008 on the conclusion, on behalf of the European Community, of the Southern Indian Ocean Fisheries Agreement (2008/780/EC) (OJ L 268, 9.10.2008, p. 27).

[13] Southern Indian Ocean Fisheries Agreement (OJ L 196, 18.7.2006, p. 15).

(2) ‘Area’ means the Area of Application as provided in Article 3(1) of the Agreement;

(3) ‘fishing’ means activities as defined in Article 1(g) of the Agreement;

(4) ‘fishery resources’ means fishery resources as defined in Article 1(f) of the Agreement;

(5) ‘fishing vessel’ means any vessel used or intended for fishing, including a mother-ship, any other vessel directly engaged in fishing operations, and any vessel engaged in transshipment;

(6) ‘Union fishing vessel’ means a fishing vessel flying the flag of a Member State and registered in the Union;

(7) ‘third country fishing vessel’ means a fishing vessel that is not a Union fishing vessel;

(8) ‘fishing opportunities’ means fishing effort or quotas allocated to a Member State by a Union act in force for fishery resources in the Area;

(9) ‘Record’ means the SIOFA Record of Vessels authorised to fish in the Area;

(10) ‘VMS’ means Vessel Monitoring System, as referred to in Article 9(1) of Council Regulation (EC) No 1224/2009[14];

(11) ‘IUU fishing’ means any illegal, unreported or unregulated fishing activities as defined in Article 2, points 1 to 4 of Regulation (EC) No 1005/2008;

(12) ‘CMM’ means a conservation and management measure adopted by the Meeting of the Parties pursuant to Article 6 of the Agreement;

(13) ‘bottom fishing’ means fishing using any gear type likely to come in contact with the seafloor or benthic organisms during the normal course of operations;

(14) ‘BFIA’ means bottom fishing impact assessment;

(15) ‘EU BFIA’ means the bottom fishing impact assessment submitted by the European Union to the SIOFA Secretariat prior to the commencement of the ordinary meeting of the Scientific Committee in 2018, as amended from time to time;

(16) ‘SIOFA BFIAS’ means the bottom fishing impact assessment standard adopted by the fourth Meeting of the Parties to SIOFA in 2017, as amended from time to time;

(17) ‘significant adverse impacts’ means the significant adverse impacts referred to in paragraphs 17 to 20 of the FAO International Guidelines for the Management of

[14] 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).

Deep-sea Fisheries in the High Seas (FAO, 2009; FAO Deep-sea Fisheries Guidelines);

(18) ‘vulnerable marine ecosystem’ (VME) means a marine ecosystem identified using the criteria outlined in paragraph 42 of the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas (FAO, 2009; FAO Deep-sea Fisheries Guidelines);

(19) ‘toothfish fishery’ means targeting species of *Dissostichus mawsoni* and/or *Dissostichus eleginoides*, collectively defined as *Dissostichus* spp.;

(20) ‘electronic observer programme’ means a programme that uses electronic monitoring equipment in place of, or in conjunction with, a human observer or human observers on board a vessel, that is capable of generating, storing and transmitting data to competent authorities;

(21) ‘FMC’ means a land-based fisheries monitoring centre of the flag Member State;

(22) ‘Del Cano Rise area’ is FAO subarea 51.7 bounded between 44° South and 45° South latitude, and the adjacent exclusive economic zones to the east and west;

(23) ‘Williams Ridge area’ is FAO subarea 57.4 bounded by the coordinates of 4 points:

point 1: 52º 30’00’’S and 80º 00’00’’E;

point 2: 55º 00’00’’S and 80º 00’00’’E;

point 3: 55º 00’00’’S and 85º 00’00’’E;

point 4: 52º 30’00’’S and 85º 00’00’’E;

(24) ‘large-scale pelagic driftnet’ means a gillnet or other net or a combination of nets which is more than 2.5 kilometres in length the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface or in the water;

(25) ‘deepwater gillnet’ means strings of single, double or triple netting walls, held vertically, usually on or near the seafloor, in which fish will gill, entangle or enmesh. Several types of nets may be combined in one gear. These nets can be used either alone or, as is more usual, in large numbers placed in line (‘fleets’ of nets). The gear can be set, anchored to the bottom or left drifting, free or connected with the vessel;

(26) ‘satellite-tracking device’ means a device as referred to in Article 9(1) of Council Regulation (EC) No 1224/2009;

(27) ‘plastics’ means a solid material which contains as an essential ingredient one or more high molecular mass polymers and which is formed (shaped) during either manufacture of the polymer or the fabrication into a finished product by heat and/or pressure;

(28) ‘transshipment’ means the unloading of all or any of the fishery resources on board a fishing vessel onto another vessel whether at sea or in port;

(29) ‘CCP’ means the SIOFA Contracting Parties, Participating Fishing Entities and Cooperating Non-Contracting Parties, as defined by the Agreement;

(30) ‘authorities of the fishing vessel’ means the authorities of the CCP under whose flag the fishing vessel is operating;

(31) ‘authorised inspector’ means an inspector designated by the authorities of a SIOFA CCP responsible for boarding and inspection and assigned to conduct boarding and inspection activities pursuant to this Regulation and CMM 2021/14 as amended from time to time;

(32) ‘authorities of the inspection vessel’ means the authorities of the SIOFA CCP under whose flag the inspection vessel is operating;

(33) ‘authorised inspection vessel’ means any vessel included in the SIOFA register of Authorised Inspection Vessels and Inspection Authorities established under paragraph 14 of CMM 2021/14, as amended from time to time, and authorised to engage in boarding and inspection activities pursuant to these procedures;

(34) ‘Draft SIOFA IUU Vessel List’ means the list of vessels presumed to have engaged in illegal, unreported and unregulated (IUU) fishing activities in the Area, drawn up by the SIOFA Secretariat and transmitted to CCPs and to non-Contracting Parties with vessels on the List prior to the Meeting of the Parties;

(35) 'other species of concern' means those species as may be defined by the Scientific Committee of SIOFA from time to time;

(36) 'National Report' means the report defined in paragraph 9 of CMM 2022/02 as amended from time to time.

Article 4
Vessel authorisation

(1) Member States shall issue an authorisation to fish for the fishery resources in the Area for fishing vessels flying their flag in accordance with Article 21 of Regulation (EU) 2017/2403 of the European Parliament and of the Council[15].

(2) Member States shall submit electronically to the Commission the following information of vessels flying their flag that are authorised to fish in the Area pursuant to Article 7 of Council Regulation (EC) No 1224/2009 and under the conditions of Article 5 of Regulation (EU) 2017/2403:

(a) name of vessel, registration number, previous names (if known), and port of registry;

(b) previous flag (if any), using country codes;

[15] 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).

(c) International Radio Call Sign (if any);

(d) International Maritime Organisation (IMO) Number (if required by IMO);

(e) name and address of owner or owners;

(f) type of vessel (using appropriate ISSCFV codes[16]);

(g) length and length type (e.g. the length of vessel taken over all extremities (LOA), the length between the forward and aft perpendiculars measured along the summer load line (LBP));

(h) name and address of operator (manager) or operators (managers*)* (if any);

(i) type of fishing method or methods (using appropriate International Standard Classification of Fishing Gear codes);

(j) gross tonnage (GT);

(k) power of main engine or engines (kw);

(l) fish hold capacity (cubic metres);

(m) freezer type (if applicable);

(n) number of freezing units (if applicable);

(o) freezing capacity (if applicable);

(p) vessel communication types and numbers (e.g. International Marine/Maritime Satellite (INMARSAT) A, B and C, Very Small Aperture Terminal (VSAT) numbers);

(q) certified drawings or description of all fish holds;

(r) VMS system details (brand, model, features and identification); and

(s) good quality, high resolution digital images of the vessel of appropriate brightness and contrast, no older than 5 years old, one digital image showing the starboard side of the vessel displaying its full overall length and complete structural features; one digital image showing the port side of the vessel displaying its full overall length and complete structural features; and one digital image of the stern taken directly from astern.

(3) Member States shall ensure that the data referred to in paragraph 2 on the vessels flying their flag authorised to fish in the Area is kept up to date.

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16 International Standard Statistical Classification of Fishery Vessels - Simplified Classification of Fishing Vessels by Vessel Types (ISSCFV).

(4) Member States shall inform the Commission of any modification regarding the vessel data, including authorisation status of current fishing vessels and any new vessels included on the list, within 10 days after such modification.

Article 5
Obligations for Member States issuing fishing authorisations

(1) Member States shall ensure that vessels not on the Record are prohibited from engaging in fishing on fishery resources covered by the Agreement.

(2) Member States shall notify the Commission of any evidence showing that there are reasonable grounds for suspecting that vessels not on the Record are operating in the Area.

(3) Member States shall:

(a) authorise the vessels flying their flag to operate in the Area only if they are able to fulfil the requirements and responsibilities under this Regulation, the Agreement and Regulation (EU) 2017/2403;

(b) take necessary measures to ensure that the vessels flying their flag comply with this Regulation, the Agreement and Regulation (EU) 2017/2403;

(c) take necessary measures to ensure that the vessels flying their flag that are on the Record keep on board valid certificates of vessel registration and valid authorisation to fish;

(d) ensure that the vessels flying their flag that are on the Record have no history of IUU fishing, or, if those vessels have such history, the new owners have provided sufficient evidence demonstrating that the previous owners and operators have no legal, beneficial or financial interest in, or control over those vessels, or that having taken into account all relevant facts, their vessels are not engaged in or associated with IUU fishing;

(e) ensure, to the extent possible, that the owners and operators of the vessels flying their flag that are on the Record are not engaged in or associated with fishing activities conducted in the Area by vessels not on the Record; and

(f) take necessary measures to ensure, to the extent possible, that the owners and/or operators of the vessels flying their flag that are on the Record are citizens, residents or legal entities within their jurisdiction so that any enforcement or punitive actions can be effectively taken against them.

CHAPTER II
BOTTOM FISHING

Article 6
Bottom fishing effort limitations and authorisation

(1) Member States shall limit the annual bottom fishing effort of vessels flying their flag that are fishing in the Area to their average annual level of a representative period in which they were active in the Area, as indicated in the fishing opportunities and notified by the Commission to SIOFA from time to time.

(2) Member States shall ensure that vessels flying their flag that engage in bottom fishing in the Area:

(a) use handline and demersal longline methods only;

(b) do not have significant adverse impacts on VMEs and, where applicable, take into account the EU BFIA and any areas where VMEs are known or likely to occur; and

(c) do not fish in any areas that are closed to fishing or engage in bottom fishing activities in the Area that are not in accordance with the requirements of this Article.

(3) By way of derogation from paragraphs 1 and 2, Member States whose vessels intend to engage in bottom fishing activities in the Area that are not in accordance with the requirements of paragraphs 1 and 2, shall submit a request for authorisation to the Commission no later than 45 days before the ordinary meeting of the SIOFA Scientific Committee at which they wish the request to be considered.

(4) The Commission shall forward the request to the SIOFA Secretariat no later than 30 days before the ordinary meeting of the SIOFA Scientific Committee. The request shall include:

(a) an assessment of the impact of the proposed fishing activities;

(b) any proposed measures to mitigate the impact under point (a); and

(c) any other information as required by the SIOFA Scientific Committee to undertake its assessment.

(5) The assessment in point (a) of paragraph 4 shall:

(a) be prepared, to the extent possible, in accordance with the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas;

(b) meet the standards of the SIOFA BFIAS;

(c) take into account areas identified where VMEs are known or likely to occur in the area to be fished;

(d) take into account the EU BFIA;

(e) be updated when a substantial change in the fishery has occurred, such that it is likely that the risk or impacts of the fishery may have changed;

(f) assess, to the extent possible, the historical and anticipated cumulative impact of all bottom fishing activity in the Area, if applicable;

(g) address whether the proposed activities achieve the objective of the Agreement, and the objective of promoting the sustainable management of deep-sea fisheries resources in the Area, including target fish stocks and non-target species, and ensuring the protection of the marine ecosystem, including among others, the prevention of significant adverse impacts on VMEs; and

(h) be made publicly available on the SIOFA website, once developed.

(6) The Commission shall inform the relevant Member State of the decision of the Meeting of the Parties regarding the authorisation to bottom fish in the Area pursuant to any request under paragraph 4, including, if applicable, the extent to which any bottom fishing shall be authorised and any measures or conditions that shall apply to ensure that any activity authorised is consistent with the objectives in paragraph 4, point (g).

Article 7
Protection of Vulnerable Marine Ecosystems (VMEs)

(1) Union vessels bottom fishing with handlines and demersal longlines shall apply a threshold level for encounters with VMEs consisting of the catch/recovery of ten or more VME-indicator units of species listed in Annex I in a single line segment.

(2) Where evidence of a VME is encountered above the threshold level established under paragraph 1 in the course of fishing operations, Union fishing vessels shall cease bottom fishing activities within a radius of one nautical mile from the midpoint of the line segment, consisting of a 1000 hooks section of line or a 1200 meters section of line, whichever is shorter.

(3) Member States shall notify to the Commission any VME encounter in accordance with the guidelines set out at Annex 2 of CMM 2020/01, as amended from time to time, and Article 41 no later than 15 days before the submission deadline of the National Report to the Scientific Committee. The Commission shall submit this information as part of the National Report to the Scientific Committee.

(4) Union fishing vessels shall not undertake bottom fishing in the notified encounter area specified in paragraph 3 unless and until the resumption of bottom fishing in the encounter area is permitted.

(5) Union fishing vessels shall not fish with demersal longlines in depths shallower than 500 metres.

Article 8
Scientific observer coverage

(1) Union fishing vessels undertaking bottom fishing with handlines and demersal longlines shall have 20 percent human scientific observer coverage in any fishing year, expressed as the percentage of the total number of observed hooks or days.

(2) Union fishing vessels fishing with handlines and demersal longlines shall have a scientific observer on board at all times while bottom fishing inside the areas provisionally designated as interim protected areas listed in Annex II.

(3) The Commission may issue a delegated act for the introduction of an electronic observer programme.

Article 9
Toothfish fishery in Del Cano Rise

(1) Union fishing vessels fishing with demersal longline may fish for toothfish in the Del Cano Rise area, provided that:

(a) fishing operations take place during the fishing season which is the period from 1 December to 30 November, both dates inclusive;

(b) VMS data is reported automatically to their FMC at least every hour when they are present in the Del Cano Rise area;

(c) at least one scientific observer is on board per vessel throughout all fishing activities. The observer shall have a target of observing 25% of hooks hauled per line over the duration of the fishing deployment;

(d) toothfish specimens are tagged and released at a rate of at least 5 fish per tonne whole live weight caught. A minimum overlap statistic of at least 60% shall apply for tag release, once 30 or more toothfish specimens have been caught;

(e) vessels do not exceed 3000 hooks per line and set lines at minimum 3 nautical miles from each other;

(f) the SIOFA Secretariat is informed daily on start and end points of set longlines, using the template in Annex II to CMM 2021/15, as amended from time to time;

(g) lines are set at depths exceeding 1000 metres;

(h) longlines are not hauled in the presence of killer whales (*Orcinus orca*) and toothed whales (*Odontoceti)*. Should killer whales arrive during hauling operations, the vessels shall cease hauling, tie off the longline with a buoy, and leave the area of operation. The vessels may only retrieve the tied-off line once the killer whales are no longer near the line.

(2) Toothfish caught by Union fishing vessels not targeting this species may not exceed 0.5 tonnes per season of toothfish. Should Union fishing vessels fishing for species

other than toothfish reach the toothfish limit of 0.5 tonnes, the Del Cano Rise area shall be closed for those vessels for the period defined in paragraph 1, point (a).

(3) Flag Member States shall send monthly reports of their toothfish catches to the Commission, using the template at Annex I to CMM 2021/15, as amended from time to time. The Commission shall forward this information to the SIOFA Secretariat without delay.

Article 10
Toothfish fishery in Williams Ridge

(1) Union fishing vessels fishing with demersal longlines may fish for toothfish in Williams Ridge provided that:

(a) fishing operations take place during the fishing season from 1 December to 30 November, both dates inclusive;

(b) toothfish specimens are tagged and released at a rate of at least 5 fish per tonne whole live weight caught. A minimum overlap statistic of at least 60% shall apply for tag release, once 30 or more toothfish have been caught;

(c) the SIOFA Secretariat is informed by the master of the Union fishing vessel as soon as the vessel enters a grid cell to fish for toothfish, using the template at Annex V to CMM 2021/15, as amended from time to time, and that the applicable advance notification process is implemented outside SIOFA Secretariat business hours;

(d) fishing does not take place in a grid cell before having received confirmation from the SIOFA Secretariat that two lines have not already been set in that grid cell during that season and that it is not currently being fished by another fishing vessel;

(e) the SIOFA Secretariat is informed of the number of lines set and/or hauled in the grid cell specified in point (d), if any, as soon as the vessels concerned exit that grid cell using the template at Annex VII to CMM 2021/15 as amended from time to time;

(f) vessels do not exceed 6250 hooks per line and lines are not set across grid cells;

(g) at least one scientific observer is on board throughout all fishing activities for each vessel participating in the fishery. The observer shall have a target of observing 25% of hooks hauled per line over the duration of the fishing deployment;

(h) only one fishing vessel at a time can fish for toothfish in a given grid cell whereby a grid cell shall be closed to fishing by other vessels while a line is being set or hauled by a vessel, and while a line has been set by a vessel and has not been hauled, and whereby a vessel entering a grid cell to haul a line and to set a second line may haul the first line before receiving the confirmation in point d), but not set the second line;

(i) the SIOFA Secretariat is informed daily on start and end points of set longlines, using the template at Annex IV to CMM 2021/15, as amended from time to time, with their flag Member State in copy;

(j) no more than two lines in total are set per grid cell for the duration of the fishing season of toothfish. Once two lines have been set in a given grid cell, it shall be closed for the remainder of that fishing season;

(k) a break of a minimum of 30 days is applied between consecutive fishing trips to Williams Ridge;

(l) longlines are not hauled in the presence of sperm whales (*Physetes catodon*). Should sperm whales arrive during hauling operations, the vessels shall cease hauling, tie off the longline with a buoy, and leave the area of operation. The vessels may only retrieve the tied-off line once the sperm whales are no longer near the line.

(2) Toothfish caught by vessels not targeting toothfish may not exceed 0.5 tonnes per season. Should a vessel fishing for species other than toothfish reach the toothfish limit of 0.5 tonnes, the Williams Ridge area shall be closed for those vessels for the fishing period referred to in paragraph 1, point (a).

(3) Flag Member States shall send daily reports of their toothfish catches to the Commission, using the template at Annex III to CMM 2021/15, as amended from time to time. The Commission shall forward this information to the SIOFA Secretariat without delay.

CHAPTER III
PROTECTION OF MARINE SPECIES

Article 11
Large-scale pelagic driftnets and deepwater gillnets

The use of large-scale pelagic driftnets and deepwater gillnets shall be prohibited in the Area.

Article 12
Deep-sea sharks

(1) Union fishing vessels shall not target any deep-sea shark species listed in Annex III.

(2) Union fishing vessels shall record and submit data reports in accordance with Annex IV (Data Standards) for all deep-sea sharks to the lowest taxonomical level possible.

Article 13
Seabirds

(1) Union fishing vessels fishing with demersal longlines shall apply the following mitigation measures south of 25° South:

(a) the location and level of lighting shall be arranged so as to minimise illumination directed out from the vessel, consistent with the safe operation of the vessel and the safety of the crew;

(b) information about birds colliding with the vessel, or caught by its gears shall be recorded in accordance with Annex B – Observer Data of CMM 2022/02, as amended from time to time; and

(c) every effort should be made to ensure that birds captured alive during fishing operations are released alive and, for longlining, that hooks are removed without jeopardising the life of the bird concerned wherever possible.

(2) Union fishing vessels fishing with demersal longlines shall also apply the following mitigation measures south of 25° South:

(a) any vessel catching a total of three (3) seabirds in a single season shall immediately change to night setting only (i.e. setting only during the hours of darkness between the times of nautical twilight);

(b) at least one bird scaring line in accordance with Annex V shall be deployed when setting longlines, and at least one bird exclusion device (BED) in accordance with Annex VI shall be used to prevent birds entering the hauling area, to the extent allowed by prevailing weather;

(c) there shall be no discharging of offal or discards immediately prior to and during the deployment or retrieval of fishing gear;

(d) fishing vessels using autoline systems shall add weights to the hookline or use integrated weight (IW) hooklines while deploying longlines;

(e) fishing vessels using the Spanish system shall release weights before line tension occurs; traditional weights (made of rocks or concrete) of at least 8.5 kilograms mass shall be used, spaced at intervals of no more than 40 metres, or traditional weights of at least 6 kilograms mass shall be used, spaced at intervals of no more than 20 metres, or solid steel weights of at least 5 kilograms mass shall be used, spaced at intervals of no more than 40 metres;

(f) fishing vessels using the trotline system exclusively (not a mix of trotlines and the Spanish system within the same longline) shall deploy weights only at the distal end of the droppers in the trotline. Weights shall be traditional weights of at least 6 kilograms or solid steel weights of at least 5 kilograms; and

(g) fishing vessels alternating between the use of the Spanish system and trotline method shall use:

(a) for the Spanish system: line weighting shall conform to the provisions in point (f);

(b) for the trotline method: line weighting shall be either 8.5 kilograms traditional weights or 5 kilograms steel weights attached on the hook-end of all droppers in the trotline at no more than 80 metre intervals.

(3) By way of derogation from paragraph 2, Union fishing vessels of less than 25 metres fishing with demersal longlines shall apply at least one of the following measures:

(a) at least one bird scaring line (in accordance with Annex V) shall be deployed when setting lines, and at least one bird exclusion device (BED, see specifications in Annex VI), shall be used to prevent birds entering the hauling area, to the extent allowed by prevailing weather;

(b) fishing vessels using autoline systems shall add weights to the hookline or use integrated weight (IW) hooklines while deploying longlines. IW longlines shall have a minimum of 50 g/m or a weight of a minimum of 5 kilograms attached to non-IW longlines at 50 to 60 metre intervals; or

(c) lines shall be set only at night (i.e. during the hours of darkness between the times of nautical twilight). The exact times of nautical twilight are set forth in the nautical almanac tables for the relevant latitude, local time and date.

CHAPTER IV
MONITORING AND CONTROL MEASURES

Article 14
Vessel Monitoring System (VMS)

(1) Union fishing vessels shall not enter the Area with a defective satellite-tracking device.

(2) Member States shall ensure that in the event of a technical failure or non-operation of the satellite-tracking device fitted on board a vessel flying their flag, the device shall be repaired or replaced within a month of a technical failure or non-operation.

(3) If the trip lasts more than one month, the repair or the replacement shall take place as soon as practicable after the vessel enters a port. If the satellite-tracking device has not been repaired or replaced within 90 days of a technical failure or non-operation, the flag Member State shall order the vessel to cease fishing, stow all fishing gear and return immediately to port in order to undertake repairs.

Article 15
Entry-Exit reports

Union fishing vessels authorised to fish in the Area shall notify the SIOFA Secretariat, by email or other means, within 24 hours, in the format provided in Annex I to CMM 2019/10, as amended from time to time, of each entry to or exit from the Area.

Article 16
Fishing vessel documents and marking

(1) Member States shall ensure that:

(a) vessels flying their flag carry on board valid fishing authorisation documents issued by their competent authority in accordance with Article 4, paragraph 1, and valid documents issued by their competent authority containing the up-to-date information listed in Article 4, paragraph 2;

(b) vessels flying their flag are marked in such a way that they can be readily identified and, where possible, marked with generally accepted international standards, such as the FAO Standard Specification for the Marking and Identification of Fishing Vessels, as required by Article 8 of Council Regulation (EC) No 1224/2009;

(c) fixed gear used by vessels flying their flag is marked as required by Article 8 of Council Regulation (EC) No 1224/2009, and:

(a) the ends of nets, lines and gear anchored to the seabed shall be fitted with flag or radar reflector buoys by day, and light buoys by night, sufficient to indicate their position and extent. Such lights should be visible at a distance of at least two nautical miles in good visibility;

(b) marker buoys and similar objects floating on the surface and intended to indicate the location and/or origin of fixed fishing gear, and where possible, the gear itself shall be clearly marked with the vessel's name and International Radio Call Sign.

(2) Member States shall without delay notify the Commission of the information regarding the marking of fixed gear used by vessels flying their flag. The Commission shall transmit this information to the SIOFA Secretariat.

Article 17
Retrieval of abandoned, lost or otherwise discarded fishing gear

(1) Masters of Union fishing vessels shall not deliberately abandon or otherwise discard fishing gear, except for safety reasons, notably if they are in distress and/or if life is in danger.

(2) When notifying their competent authority under Article 48(3) of Council Regulation (EC) No 1224/2009, masters of Union fishing vessels shall provide the following information:

(a) the name, IMO number and call sign of the vessel;

(b) the type of abandoned, lost or otherwise discarded gear;

(c) the quantity of abandoned, lost or otherwise discarded gear;

(d) the time when the gear was abandoned, lost or otherwise discarded (consistent with Annex IV);

(e) the position (longitude/latitude) where the gear was abandoned, lost or otherwise discarded (consistent with Annex IV);

(f) measures taken by the vessel to retrieve lost gear; and

(g) report, if known, the circumstances that led to the gear being abandoned, lost or otherwise discarded.

(3) Following retrieval of any abandoned, lost or otherwise discarded fishing gear, masters of Union fishing vessels shall notify their competent authority of the following:

(a) the name, IMO number and call sign of the vessel that has retrieved the gear;

(b) the name, IMO number and call sign of the vessel that abandoned, lost or otherwise abandoned the gear (if known);

(c) the type of gear retrieved;

(d) the quantity of gear retrieved;

(e) the time when the gear was retrieved (consistent with Annex IV);

(f) the position (longitude/latitude) where the gear was retrieved (consistent with Annex IV); and

(g) if possible, photographs of the gear retrieved.

(4) The flag Member State shall without delay notify the Commission of the information referred to in paragraphs 2 and 3.

(5) The Commission shall send the notification to the SIOFA Secretariat without delay.

Article 18
Discharge of plastics

(1) The discharge by Union vessels into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, plastic garbage bags and incinerator ashes from plastic products shall be prohibited. All plastics on-board shall be stored on-board the vessel until they can be discharged at adequate port reception facilities.

(2) Paragraph 1 shall not apply to:

(a) the discharge of plastics from a vessel necessary for the purpose of securing the safety of a ship and those on board or saving life at sea;

(b) the accidental loss of plastics, synthetic ropes and fishing nets from a vessel provided that all reasonable precautions have been taken to prevent such loss.

Article 19
At-sea transshipments and transfers

(1) Union fishing vessels shall only undertake transshipments at sea of fishery resources with other vessels included on the Record.

(2) Union fishing vessels undertaking at-sea transshipment as specified in paragraph 1 shall:

(a) notify the competent authority of their flag Member State at least 7 days in advance of the start of a 14-day period during which the at-sea transshipment is scheduled to occur, using the Transshipment Notification established in Annex II to CMM 2019/10, as amended from time to time;

(b) notify the competent authority of their flag Member State 24 hours in advance of the estimated time during which the at-sea transshipment will occur, using the said Transshipment Notification;

(c) notify all the operational details to their competent authority, as specified in the Transshipment Declaration established in Annex IV of CMM 2019/10, as amended from time to time, within 24 hours following the transshipment.

(3) For the purpose of paragraph 2, Member States shall ensure that:

(a) their competent authority transmits the notifications referred to in paragraph 2 points a) and b) to the Commission who will forward it to the SIOFA Secretariat without delay;

(b) an impartial and qualified observer that they have authorised is either on board the receiving vessel or the unloading vessel, who shall to the extent possible monitor the transshipment and to the extent possible complete the logsheet as set out in the Transshipment Logsheet established in Annex III of CMM 2019/10 relating to quantities of the species (FAO species/group code/scientific name) of any fishery resources being transshipped, as amended from time to time;

(c) the observer referred to in point b) provides a copy of the said Transshipment Logsheet to the competent authority of the observed vessel;

(d) their competent authority submits the observer data on the said Transshipment Logsheet referred to in point c) to the Commission no later than 10 days from the debarkation of the observer; the observer forwards to the SIOFA Secretariat the observer data on the said Transshipment Logsheet no later than 15 days from his debarkation.

(4) Union fishing vessels undertaking an at-sea transfer operation of fuel, crew, gear or any other supplies, either as an unloading or receiving vessel, where one or both vessels has been involved or intends to undertake fishing in the Area during that trip, other than in the case of emergencies, shall notify their competent authority at least 24 hours in advance of the planned transfer.

(5) The notifications referred to in paragraph 4 shall include the relevant information available regarding the transfer in accordance with the Transfer Notification established in Annex V of CMM 2019/10, as amended from time to time.

(6) The competent authority of the flag Member State shall transmit the notification to the Commission who shall forward it to the SIOFA Secretariat without delay.

(7) Union fishing vessels shall notify all the operational details of the transfer to the competent authority of their flag Member State, as specified in the Transfer Declaration established in Annex VI of CMM 2019/10, as amended from time to time. The competent authority of the flag Member State shall transmit the notification to the Commission within 24 hours following the transfer who shall forward it to the SIOFA Secretariat without delay.

(8) Each flag Member State involved in a transshipment or transfer at sea shall take the appropriate measures to verify the accuracy of the information received in accordance with this Article.

Article 20
Monitoring of transshipments in ports

(1) Union fishing vessels shall only transship in a port if they have prior authorisation from their flag Member State and the port State.

(2) For each transshipment of fishery resources in port, the competent authority of the flag Member State of the unloading vessel shall notify, at least 24 hours in advance, the following information to the port State and, if known, the flag State of the receiving vessel:

(a) the date, time and port of transshipment;

(b) the name and flag of the unloading transshipping vessel;

(c) the name and flag of the receiving vessel; and

(d) the weight of fishery resources (kilograms) by species (FAO species/group code/scientific name) to be transshipped.

(3) The competent authority of the flag Member State of a receiving vessel shall inform the competent authority of the port State of the quantities of fishery resources on board the vessel 24 hours before the transshipment and again 24 hours after the transshipment.

(4) The flag Member State of the unloading vessel shall require the vessel to submit a Transshipment Declaration as established in Annex IV of CMM 2019/10, as amended from time to time, to its competent authority and to that of the port State within 24 hours of the transshipment, and also provide a copy to the receiving vessel.

(5) The competent authority of the flag Member State of a receiving vessel shall, 48 hours before a landing of the transshipped fishery resources, submit a copy of the received Transshipment Declaration to the competent authority of the port State where the landing takes place.

(6) Each flag Member State involved in the transshipment in port shall take the appropriate measures to verify the accuracy of the information received in accordance with this Article.

Article 21
Reporting of transshipments and at sea transfers

(1) Member States shall provide to the Commission annually the following information in relation to each transshipment and at sea transfer by vessels flying their flag, at least 30 days prior to each meeting of the Compliance Committee in relation to their activities in the past 12 months:

(a) date, time and location of transshipment or transfer in accordance with the specifications in CMM 2022/02 (Data Standards), as amended from time to time;

(b) names of vessels, flag States and registration number/call sign of the transshipping vessels or transferring vessels;

(c) tonnage of any fishery resources, including species/group name (FAO species/group code/scientific name) transshipped;

(d) type and description of transfers; and

(e) any other relevant information.

(2) The Commission shall send the information referred to in paragraph 1 to the SIOFA Secretariat at least 14 days prior to each meeting of the Compliance Committee.

Article 22
Labelling of frozen products of fishery resources

Member States shall ensure that, when processed, all species harvested in the Area are labelled in the following way:

(a) when frozen, all fishery resources or fishery resource products derived from fishing caught and retained on board shall be identified by a clearly legible label or stamp. The label or stamp, on each box, carton, container, bag or block (hereafter 'package') of frozen fishery resources or fishery resource products derived from fishing, shall indicate the species (e.g. common name/scientific name/FAO 3-Alpha code/codes as defined by the SIOFA Scientific Committee), presentation, production date, and vessel identification number of the catching vessel. Where a package contains multiple species, the label or stamp shall indicate all of the species contained in the package and its quantity in kilograms;

(b) labels are securely affixed, stamped, pre-printed or written on packages at the time of stowage and be of a size that can be clearly read by inspectors in the normal course of their duties;

(c) labels are marked in ink on a contrasting background; and

(d) each package shall contain only one species (common name/scientific name/FAO 3-Alpha code or codes as defined by the Scientific Committee) unless the package:

(a) contains small quantities of mixed species intended for human consumption, and that do not exceed 25 kilograms of any single species by haul, or

(b) contains fishery resources intended for use other than human consumption (such as, for example, fish meal). The words « not for human consumption » shall appear on the label;

(e) packages referred in point (d) shall be stored on board the fishing vessel in a manner that allows observers and inspectors to perform their respective tasks. Observers, when they are on board, shall record weight and species composition in packages containing multiple species;

(f) the provisions under point (d) shall not constrain the collection and reporting of data required under Annex IV.

Article 23
Scientific observer programme

Member States shall ensure that the scientific observers carried by vessels flying their flag operating in the Area are qualified and authorised to perform their tasks and record any requested data.

CHAPTER V
CONTROL OF THIRD COUNTRY VESSELS IN MEMBER STATE PORTS AND HIGH SEAS

Article 24
Sightings and identifications of non-CCP vessels

(1) Member States shall ensure that vessels flying their flag report any presumed fishing, including transshipment, in the Area by vessels flying the flag of a State or fishing entity which is not a Party to or otherwise cooperating with the Agreement. Member States shall ensure that reports from vessels flying their flag contain, to the extent possible, the following information:

(a) name of vessel;

(b) registration number/call sign of the vessel;

(c) flag State of the vessel;

(d) date, time and position of sighting consistent with the standards for specification of data described in CMM 2022/02, as amended from time to time; and

(e) any other relevant information regarding the sighted vessel, including photographs.

(2) Member States shall submit the information in paragraph 1 to the Commission. The Commission shall send the information to the SIOFA Secretariat.

Article 25
Port measures

(1) Member States shall require vessels flying their flag to cooperate with the port State in inspections carried out pursuant to this Regulation, the Agreement or CMMs.

(2) Port Member States shall maintain an effective system of port State control for all vessels that have been engaged in fishing in the Area, except container vessels that are not carrying fishery resources. Container vessels carrying fishery resources shall not be subject to port state control measures only when such fishery resources have been previously landed, provided that there are no clear grounds for suspecting that such a vessel has engaged in fishing related activities in support of IUU fishing.

(3) When a Member State has clear grounds to believe that a vessel flying its flag has engaged in IUU fishing and is seeking entry to or is in the port of another CCP it shall, as appropriate, request that the port State inspects the vessel or takes other adequate measures.

(4) Where, following port State inspection, a Member State receives an inspection report indicating that there are clear grounds to believe that a vessel flying its flag has engaged in IUU fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with Union and national law.

(5) Member States shall report to the Commission on any actions they have taken in respect of vessels flying their flag that, as a result of port State measures taken pursuant to this Regulation, have been determined to have engaged in IUU fishing. The Commission shall submit this information to the SIOFA Secretariat.

(6) Member States shall provide a report to the Commission of action they have taken as port or flag States pursuant to paragraph 3.

(7) Member States shall provide the reports referred to in paragraphs 5 and 6 to the Commission at least 30 days prior to each ordinary meeting of the Compliance Committee. The Commission shall send these reports to the SIOFA Secretariat no later than 14 days prior to each ordinary meeting of the Compliance Committee.

(8) Member States wishing to grant access to their ports to third country fishing vessels shall designate:

(a) the port to which third country fishing vessels may request entry pursuant to Article 5 of Regulation (EC) No 1005/2008;

(b) a point of contact for the purposes of receiving prior notice pursuant to Article 6 of Regulation (EC) No 1005/2008;

(c) a point of contact for the purposes of receiving inspection reports pursuant to Article 11(3) of Regulation (EC) No 1005/2008.

(9) Member States shall transmit any changes to the list of their designated ports and points of contact to the Commission at least 45 days before the changes take effect. The Commission shall forward that information to the SIOFA Secretariat at least 30 days before the changes take effect.

(10) Member States shall ensure that their designated ports have sufficient capacity to conduct inspections consistent with the requirements of the Agreement and this Regulation.

Article 26

Prior notice for port entry of third country vessels and authorisation or denial of port entry

(1) Each port Member State shall, before granting entry to a third country vessel to its port, as a minimum standard, require the information in Annex I to CMM 2020/08, as amended from time to time, together with the dates of the fishing trip, which are to be provided at least three working days before the estimated time of arrival at the port. In case of fresh fishery products on board of such vessel, the information shall be provided four hours before the estimated time of arrival.

(2) If the third country vessel requesting entry to port carries on board fishery products, the port Member State shall require the information referred to in paragraph 1 to be accompanied by a catch certificate validated in accordance with Chapter III of Regulation (EC) No 1005/2008.

(3) After receiving the information required pursuant to paragraph 1 and, where applicable, paragraph 2, the port Member State shall decide whether to authorise or deny the entry of the third country vessel into its port and shall communicate this decision to the master of the vessel or to the vessel's representative.

(4) In the case of authorisation of entry, the port Member State competent authority shall require the master of the vessel or the vessel’s representative to present it with the authorisation for entry upon the vessel’s arrival at port.

(5) In the case of denial of entry, the port Member State competent authority shall communicate its decision taken to the flag State of the vessel and to the Commission. The Commission shall transmit this information to the SIOFA Secretariat.

(6) If a port Member State has proof that a vessel seeking entry into its port has engaged in IUU fishing, such as in particular its inclusion in a list of vessels engaged in IUU fishing adopted by SIOFA, other CCPs, other regional fisheries management organizations or the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), it shall deny that vessel entry into its ports.

(7) A port Member State may allow the entry into its ports of a vessel referred to in paragraph 6 exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law, which are at least as effective as denial of port entry in preventing, deterring and eliminating IUU fishing. Where such a vessel is already in port for any reason, the port Member State shall deny it the use of its ports for landing, transshipping, packaging, and processing of fishery resources and for other port services including, inter alia, refuelling and resupplying,

maintenance and dry-docking. Paragraphs 2 and 3 of Article 27 shall apply mutatis mutandis in such cases.

Article 27
Use of ports by third country vessels

(1) Where a third country vessel has entered one of its ports, a port Member State shall, pursuant to Union and national law and consistent with international law including the Agreement, deny the use of the port for landing, transshipping, packaging and processing of fishery resources that have not been previously landed and for other port services, including, inter alia, refuelling and resupplying, maintenance and dry-docking, if:

(a) the vessel does not have a valid and applicable authorisation to engage in fishing or fishing related activities required by its flag State; or

(b) the State whose flag the vessel is flying does not confirm within a reasonable period of time, on the request of the port State, that the fishery resources on board were taken in accordance with the Agreement and CMMs; or

(c) there are reasonable grounds to believe that the vessel was otherwise engaged in IUU fishing, including in support of a vessel, unless the owner/operator of the vessel can prove:

(a) that it was acting in a manner consistent with relevant CMMs; or

(b) in the case of provision of personnel, fuel, gear and other supplies at sea, that the vessel that was provisioned was not, at the time of provisioning, a vessel referred to in Article 26, paragraph 6.

(2) Notwithstanding paragraph 1, port Member States shall not deny a vessel referred to in that paragraph the use of port services:

(a) essential to the safety or health of the crew or the safety of the vessel, provided these needs are duly proven; or

(b) where appropriate, for the scrapping of the vessel.

(3) Where a port Member State has denied the use of its port in accordance with paragraph 1, it shall promptly notify the State whose flag the vessel is flying and the Commission, who shall promptly transmit this information to the SIOFA Secretariat.

(4) A port Member State shall withdraw its denial of the use of its ports pursuant to paragraph 1 only if there is proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer apply.

(5) Where a port Member State has withdrawn its denial pursuant to paragraph 4, it shall notify the State whose flag the vessel is flying and the Commission, who shall promptly transmit this information to the SIOFA Secretariat.

Article 28
Port inspections

(1) Port Member States shall ensure that inspections of any vessels in their ports are carried out by inspectors duly authorised, trained and familiar with this Regulation, the Agreement and relevant CMMs.

(2) For inspector training programs, port Member States shall take into account the elements set out in Annex II to CMM 2020/08, as amended from time to time.

(3) All fishing vessels carrying or landing toothfish which enter Union ports shall be inspected.

(4) In addition to Article 9 of Regulation (EC) No 1005/2008, port Member States shall inspect third country vessels in their ports when:

(a) there is a request from another CCP, any regional fisheries management organisation or CCAMLR, or the Commission, that a particular fishing vessel be inspected, particularly where such requests are supported by evidence of IUU fishing by the vessel in question, and there are clear grounds for suspecting that a vessel has engaged in IUU fishing;

(b) a vessel has failed to provide the information required by Article 26(1).

(5) Prior to an inspection, the inspector shall present to the master of the vessel an appropriate identity document.

(6) Port Member States shall ensure that inspections of vessels in their ports are carried out in accordance with the procedures set out in Annex III to CMM 2020/08, as amended from time to time.

(7) The port Member State may invite inspectors of other CCPs to accompany their own inspectors and observe the inspection of landings or transshipment operations of fishery resources caught by third country vessels.

(8) Inspections shall be conducted within 72 hours of port entry, unless weather conditions or other circumstances make accessing the vessel for inspection unsafe. In such cases, the inspection shall be carried out at the earliest opportunity and the inspection report shall note the reason for the delay, and shall be carried out in an expeditious fashion.

(9) The port Member State shall ensure that its inspectors make all possible efforts to avoid unduly delaying a vessel, ensuring that the vessel inspected suffers minimum interference and inconvenience, and avoid degradation of the quality of the fish resources.

(10) The competent authority of the port Member State shall forward to the Commission a written report of the results of each inspection, which shall include at least the information set out in Annex IV to CMM 2020/08, as amended from time to time. The Commission shall send the report to the competent authority of the inspected vessel and to the SIOFA Secretariat.

(11) The competent authority of the port Member State shall forward the inspection report to the Commission within 25 days following the date of completion of the inspection or as soon as possible where potential compliance issues have arisen or if there are issues which warrant the attention of the competent authority of the inspected vessel. If the inspection report cannot be transmitted within that time period, the port Member State shall notify the Commission within that same time period of the reasons for the delay and when the report will be submitted.

(12) The Commission shall forward the inspection report to the competent authority of the inspected vessel and to the SIOFA Secretariat within 30 days following the date of completion of the inspection or as soon as possible where potential compliance issues have arisen or if there are issues which warrant the attention of the competent authority of the inspected vessel. If the inspection report cannot be transmitted within that time period, the Commission shall notify the SIOFA Secretariat within that same time period of the reasons for the delay and when the report will be submitted.

CHAPTER VI
ENFORCEMENT

Article 29
General principles

(1) Member States may carry out boarding and inspection in the Area of fishing vessels flying the flag of a CCP that is engaged in or suspected to have engaged in fishing.

(2) Inspecting Member States shall ensure that their authorised inspectors comply with this Regulation in the conduct of any boarding and inspection activities undertaken pursuant to this Regulation.

(3) Union fishing vessels shall accept and facilitate boarding and inspection carried out by Contracting Parties to the SIOFA.

(4) Member States shall ensure that they can respond to any interference by a fishing vessel flying their flag, or its master or crew, with an authorised inspector, or an authorised inspection vessel.

Article 30
Notification to Commission

(1) A Member State that intends to carry out boarding and inspection activities shall notify the Commission of this intention, and provide the following:

(a) with respect to each authorised inspection vessel:

(a) details of the vessel (name, description, photograph, registration number, port of registry, port marked on the vessel hull if different from the port of registry, international radio call sign), except where not applicable for military vessels; and

(b) notification that the inspection vessel is clearly marked and identifiable as being on government service and by clearly flying the SIOFA inspection flag set out in Annex 2 to CMM 2021/14, as amended from time to time.

(b) with respect to authorised inspectors that it designates:

(a) the name(s) of the authorities responsible for boarding and inspection;

(b) an example of the credentials issued to its authorised inspectors;

(c) notification that such authorised inspectors are familiar with the species and fishing activities to be inspected and the relevant provisions of this Regulation, the Agreement and CMMs in force;

(d) notification that the authorised inspectors have received and completed training to safely carry out boarding and inspection activities at sea. Such training should include instruction on overcoming communication barriers and on de-escalation techniques; and

(e) notification that any authorised inspectors carrying arms have received and completed appropriate levels of training on the use of those arms.

(2) Member States shall promptly notify the Commission of any changes to the information provided under the preceding paragraph.

(3) The Commission shall send the information received under paragraphs 1 and 2 to the SIOFA Secretariat.

(4) Notwithstanding Article 29, paragraph 3, the Commission may notify the Meeting of the Parties that the high seas boarding and inspection provisions in this Regulation shall apply in their entirety between the Union and a Participating Fishing Entity as defined by the Agreement.

Article 31
High seas boarding and inspection procedure

(1) Authorised inspection vessels carrying out high seas boarding and inspection in the Area shall fly the SIOFA inspection flag set out in Annex 2 to CMM 2021/14, as amended from time to time, in a clearly visible fashion.

(2) Authorised inspectors shall carry an official and valid identity card identifying the inspector as authorised to carry out boarding and inspection.

(3) An authorised inspection vessel that intends to board and inspect a fishing vessel in the Area that is engaged in or suspected to have engaged in fishing shall, prior to initiating the boarding and inspection:

(a) initiate notice to the authorities of the fishing vessel, where known;

(b) make best efforts to establish contact with the fishing vessel by radio, by the appropriate International Code of Signals or by other accepted means of alerting the vessel;

(c) provide the following information to the fishing vessel to identify itself as an authorised inspection vessel: name, registration number, international radio call sign, authority of the inspection vessel, and contact frequency; and

(d) communicate to the master of the vessel its intention to board and inspect the vessel pursuant to this Regulation.

(4) In carrying out boarding and inspection, authorised inspectors shall make their best efforts to communicate with the master of the fishing vessel(s) in a manner that the master can understand. If necessary to facilitate communication between the authorised inspectors and the master of the fishing vessel, the authorised inspectors shall use the relevant parts of the standardised questionnaire set out at Annex 3 of CMM 2021/14, as amended from time to time, and the translations published on the SIOFA website.

(5) Authorised inspectors shall have the authority to inspect, take evidence and samples, and record information on the fishing vessel, its license, gear, equipment, catch and production records, facilities, fishery resources and any other documents which may be relevant to verifying compliance with this Regulation.

(6) Inspecting Member States shall ensure that a maximum of four authorised inspectors are assigned as part of a boarding team from an authorised inspection vessel unless the commanding officer of the authorised inspection vessel decides additional authorised inspectors are required due to the anticipated complexity of the inspection. In all instances, the boarding team shall only contain the number of authorised inspectors necessary to conduct an effective inspection safely and securely.

(7) Inspecting Member States shall ensure that boarding and inspection shall be conducted in a manner:

(a) that avoids risks to the safety of fishing vessels and crew, including by ensuring that the authorised inspection vessel maintains a safe distance from the fishing vessel during the inspection;

(b) that does not unduly interfere with the lawful operation of the fishing vessel;

(c) that avoids actions that will damage fishing gears or adversely affect the quality of the catch; and

(d) that does not harass the officers, crew, or observers of the fishing vessel.

(8) In the conduct of a boarding and inspection, each authorised inspector shall:

(a) present their identity card to the master of the vessel;

(b) refrain from interfering with the master’s ability to communicate with the authorities of the fishing vessel;

(c) collect and document any evidence they believe indicates a violation of this Regulation, the Agreement or CMMs;

(d) provide to the master, prior to leaving the vessel, a copy of an interim report, which may be an electronic report, on the boarding and inspection including any objection or statement, which may be in a language other than English, which the master wishes to include in the interim report; and

(e) complete the inspection within four hours of boarding unless evidence of a serious violation is found, or where a longer time period is required to obtain related documentation issued by the master. However, in special circumstances related to the size of the fishing vessel, and the quantities of fish retained on board, the duration of the inspection may exceed the limit stipulated above. In such a situation the boarding team shall in no case stay on board the fishing vessel longer than the time required to complete the inspection.

(9) During the conduct of a boarding and inspection, the master and crew of Union fishing vessels shall:

(a) avoid risks to the safety of authorised inspection vessels and authorised inspectors;

(b) accept and facilitate prompt and safe boarding by the authorised inspectors when so directed or when intention to board and inspect has been communicated;

(c) cooperate with and assist in the safe inspection of the vessel;

(d) refrain from assaulting, resisting, intimidating, interfering with, obstructing or delaying the authorised inspectors in the performance of their duties;

(e) allow the authorised inspectors to communicate promptly with the crew of the authorised inspection vessel, the authorities of the inspection vessel, any observers on the fishing vessel, as well as with the crew and authorities of the fishing vessel when directed;

(f) take such action as may be necessary to preserve the integrity of any seal affixed by the inspectors and of any evidence remaining on board;

(g) secure the continuity of evidence, where seals have been affixed and/or evidence has been secured, sign the appropriate section of the inspection report acknowledging the placement of seals;

(h) cease fishing when requested, and not resume fishing until:

(a) the authorised inspectors have completed the inspection and secured any evidence; and

(b) the master has signed the appropriate section of the inspection report as referred to in Annex 1 of CMM 2021/14, as amended from time to time, whereby signature includes an electronic signature;

(i) provide the authorised inspectors on board with reasonable facilities; and

(j) facilitate safe and prompt disembarkation by the authorised inspectors when directed.

(10) If the master or crew of a Union fishing vessel refuses to allow an authorised inspector to carry out a boarding and inspection in accordance with this Regulation, this person and the master or officer on watch shall offer an explanation of the reason for refusing.

(11) The inspecting Member State shall immediately and simultaneously notify the flag State of the fishing vessel and the Commission of any refusal to allow an authorised inspector to carry out a boarding and inspection in accordance with this Regulation and the explanation offered. The Commission shall send the notification to the SIOFA Executive Secretary without delay.

(12) Except where generally accepted international regulations, procedures and practices relating to safety at sea make it necessary to delay the boarding and inspection, the flag Member State shall require the master of a fishing vessel flying its flag to accept the boarding and inspection. If the master does not comply with such direction, the relevant flag Member State shall immediately suspend the vessel's authorisation to fish and order the vessel to return immediately to port.

(13) The flag Member State shall immediately notify the Commission of the action it has taken in the circumstances referred to in paragraph 12. The Commission shall send this information to the authorities of the inspection vessel and the SIOFA Executive Secretary without delay.

(14) The use of force shall be avoided except when and to the degree necessary to ensure the safety of the authorised inspectors or where the authorised inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.

(15) Any incident involving the use of force shall be immediately and simultaneously reported to the authorities of the fishing vessel, the authorities of the inspection vessel, as well as to the Commission. The Commission shall send this information to the SIOFA Executive Secretary without delay.

(16) The use of any arms carried by members of the boarding team is subject to the restrictions on the use of force set out in paragraph 14. Any arms carried by members of the boarding team shall be carried in a non-aggressive posture throughout the boarding and inspection unless otherwise required for the purpose of ensuring safety and security.

Article 32
High seas boarding and inspection reporting procedure

(1) Authorised inspectors shall prepare a report on each boarding and inspection using the data fields in the Boarding and Inspection Reporting Form (Annex 1 of CMM 2021/14, as amended from time to time). The inspecting Member State shall transmit an electronic copy of the boarding and inspection report simultaneously to the

authorities of the fishing vessel, and to the Commission, within three working days of the completion of the boarding and inspection. Where it is not technically possible for the inspecting Member State to provide this report to the authorities of the fishing vessel and to the Commission within this timeframe, the inspecting Member State shall simultaneously inform the authorities of the fishing vessel and the Commission, and shall specify the time period within which the report will be provided. The Commission shall send the report to the SIOFA Executive Secretary without delay.

(2) The report shall include the name(s) and authority of the authorised inspector(s) and identify any observed activity or condition that the authorised inspectors believe to be a violation of this Regulation, the Agreement or CMMs and indicate specific factual evidence relating to each alleged violation.

(3) Member State competent authorities shall provide any evidence obtained as a result of a boarding and inspection procedure with respect to a violation of this Regulation, the Agreement or CMMs by a fishing vessel to the Commission, which shall refer it to the authorities of the fishing vessel for action.

Article 33
Serious violations

(1) For the purpose of this Regulation, a serious violation shall include the following violations of this Regulation, the Agreement or CMMs:

(a) fishing without a valid license, permit or authorisation issued by the flag State, or failure to produce a valid license, permit or authorisation when requested by an authorised inspector;

(b) failure to maintain records of effort, catch and catch-related data in accordance with reporting requirements or significant misreporting of such effort, catch and/or catch-related data;

(c) fishing in a closed area;

(d) fishing during a closed season;

(e) intentionally taking or retaining a species in contravention of the Agreement, this Regulation or any applicable CMMs;

(f) significant violation of effort and/or catch limits or quotas in force;

(g) using prohibited fishing gear;

(h) falsifying, intentionally concealing or intentionally removing the markings, identity and/or registration of a fishing vessel;

(i) concealing, tampering with or disposing of evidence relating to an investigation being carried out under this Regulation or CMMs, including the intentional breaking of seals or intentionally gaining access to sealed areas;

(j) failing to carry, or intentionally tampering with or disabling, the VMS;

(k) presentation of falsified documents or intentionally providing false information to an authorised inspector that would prevent a serious infringement from being detected;

(l) multiple violations which taken together constitute a serious disregard of the Agreement, this Regulation or CMMs;

(m) refusal to accept or facilitate a safe and prompt boarding and inspection when directed by an authorised inspector, other than as provided in accordance with Article 31, paragraph 10;

(n) assaulting, resisting, intimidating, sexually harassing, interfering with, or unduly obstructing or delaying an authorised inspector; and

(o) breaching observer safety requirements.

(2) Where authorised inspectors observe an activity or condition of a fishing vessel that may constitute a serious violation within the meaning of paragraph 1, the inspecting Member State shall notify the Commission immediately. The Commission shall notify the authorities of the fishing vessel directly and through the SIOFA Executive Secretary.

(3) Upon receipt of a notification of an alleged serious violation in accordance with paragraph 2, the flag Member State of the Union fishing vessel shall provide without delay and in any case no later than within three working days an initial response to the authorities of the inspection vessel and to the Commission, which shall send the initial response to the SIOFA Executive Secretary:

(a) notifying that the flag Member State will investigate the alleged serious violation; or

(b) authorising the authorities of the inspection vessel to undertake the investigation of the alleged serious violation.

(4) In the case of paragraph 3(a), the inspecting Member State shall provide, as soon as practicable, the specific evidence collected by its authorised inspectors to the Commission for transmission to the authorities of the fishing vessel.

(5) The flag Member State of the Union fishing vessel shall provide a report of the investigation to the Commission within one month of the notification in paragraph 3, and if the evidence warrants, take enforcement action against the fishing vessel in question and notify the Commission of any such enforcement action within four months of the date of notification in paragraph 3.

(6) The Commission shall send the report of the investigation to the authorities of the inspection vessel and the SIOFA Executive Secretary within one month of the notification in paragraph 3, and shall notify them of any enforcement action taken within six months of the notification in paragraph 3.

(7) In the case of paragraph 3(b), if the inspecting Member State decides to undertake an investigation, it shall ensure that the specific evidence collected by its authorised inspectors, along with the results of any investigation, is provided to the Commission

immediately upon completion of the investigation and in any case no later than five months after the date of the inspection. The Commission shall send the evidence collected along with the results of any investigation to the authorities of the fishing vessel and the SIOFA Executive Secretary without delay and in any case no later than six months after the date of the inspection.

(8) Notwithstanding paragraphs 4 to 7, when a Member State receives a request to investigate an alleged serious violation within the meaning of this provision, the relevant Member State shall provide a reply, including details of any action taken or proposed to be taken in relation to the alleged serious violation, to the Commission as soon as practicable and in any case within one month of such a request.

(9) The Commission shall forward the reply to other Contracting Parties as soon as practicable and in any case within two months of such a request. When the investigation is completed, the relevant Member State shall also provide a report on the outcome of the investigation to the Commission, which shall forward it to the SIOFA Executive Secretary for circulation to all CCPs for consideration at the next Meeting of the Parties.

Article 34
High seas boarding and inspection provisions relating to non-CCPs

(1) Inspecting Member States shall ensure that their authorised inspection vessels, while carrying out activities in accordance with this Regulation, aim to identify unauthorised or unidentified vessels of non-CCPs that are fishing in the Area. Member States shall report any such vessels to the Commission, which shall report them to the SIOFA Executive Secretary.

(2) If an authorised inspection vessel of an inspecting Member State attempts to inform any fishing vessel identified pursuant to paragraph 1 that it has been seen or identified as potentially engaging in fishing that undermines the effectiveness of the Agreement or CMMs, the inspecting Member State shall ensure that this information is sent to the Commission. The Commission shall send this information to the authorities of the relevant flag State and to the SIOFA Executive Secretary.

(3) Where a Member State's authorised inspectors request permission from a fishing vessel identified pursuant to paragraph 1 to board it and the vessel master or the flag State authorities consent to a boarding, the inspecting Member State shall transmit the findings of any subsequent inspection to the Commission. The Commission shall transmit this information to the SIOFA Executive Secretary.

Article 35
Military vessels

Where Member States use military vessels for conducting boarding and inspection under this Regulation, they shall ensure that such boarding and inspection is safely carried out by inspectors fully trained in fisheries enforcement procedures and duly authorised for this purpose under national laws, and that boardings from such military vessels by authorised inspectors conform to the procedures contained within this Regulation.

Article 36
Information on vessels presumed to have engaged in IUU fishing

(1) Member States shall every year, and at least 110 days before each ordinary Meeting of the Parties, transmit to the Commission, using the Reporting Form in Annex I to CMM 2022/06, as amended from time to time, information on vessels presumed to have engaged in IUU fishing activities in the Area, accompanied by all available supporting evidence concerning the presumption of the IUU fishing activities.

(2) The Commission shall examine the information referred to in paragraph 1 and transmit it to the SIOFA Secretariat at least 90 days before each ordinary Meeting of the Parties. Prior to that, or at the same time, the Commission shall provide, either directly or through the SIOFA Executive Secretary, to the relevant flag State a copy of the pertinent suitably documented information and notification of its relevance to the Draft SIOFA IUU Vessel List, with a request that the flag State promptly acknowledge receipt of this notification.

Article 37
Inclusion of a Union fishing vessel in the Draft SIOFA IUU Vessel List

(1) Where the Commission receives from the SIOFA Secretariat an official notification of the inclusion of a Union fishing vessel in the Draft SIOFA IUU Vessel List, it shall transmit the notification, including the supporting evidence and any other documented information provided by the SIOFA Secretariat, to the flag Member State concerned for comments not later than 55 days in advance of the next ordinary Meeting of the Parties.

(2) The flag Member State shall provide any comments to the Commission not later than 45 days in advance of the next ordinary Meeting of the Parties, including verifiable evidence and other supporting information, showing that the vessel included on the Draft SIOFA IUU Vessel List has neither operated in contravention of CMMs nor had the possibility of engaging in fishing in the Area. The Commission shall examine and forward any comments from the flag Member State to the SIOFA Secretariat at least 40 days in advance of the next ordinary Meeting of the Parties.

(3) Once notified by the Commission in accordance with paragraph 1, the authorities of the flag Member State shall notify the owner of the fishing vessel of its inclusion in the Draft SIOFA IUU Vessel List and of the consequences of its inclusion being confirmed in the SIOFA IUU Vessel List adopted by the Meeting of the Parties.

Article 38
SIOFA IUU Vessel List

(1) When the SIOFA IUU Vessel List is adopted by the Meeting of the Parties, the Commission shall notify it to the Member States, which shall:

(a) notify the owner of any vessel flying their flag of its inclusion on the SIOFA IUU Vessel List and the consequences which result from being included in the SIOFA IUU Vessel List; and

(b) take the measures foreseen in Article 37 of Regulation No 1005/2008 in respect of fishing vessels included in the SIOFA IUU Vessel List as of the time of its notification by the Commission and inform the Commission of these measures;

(c) prohibit the chartering of vessels on the SIOFA IUU Vessel List;

(d) prohibit change of crew on board of vessels on the SIOFA IUU Vessel List;

(e) collect and transmit to the Commission any appropriate relevant information on vessels included in the SIOFA IUU Vessel List, which the Commission shall forward to the SIOFA Secretariat for the purpose of exchanging it with other CCPs.

(2) Where a vessel included on the SIOFA IUU Vessel List is in a Union port for any reason, the port Member State shall deny such vessel the use of its ports for landing, transshipping, packaging, and processing of fish and for other port services including, inter alia, refuelling and resupplying, maintenance and drydocking, except in the cases foreseen in Article 37, paragraphs 5, 6 and 11 of Regulation No 1005/2008.

Article 39
Alleged non-compliance reported by the SIOFA

(1) If the Commission receives from the SIOFA Secretariat any information indicating a suspected non-compliance with the Agreement or CMM by a Member State or by vessels flying a Member State flag, the Commission shall transmit that information to the Member State concerned without delay.

(2) The Member State shall provide the Commission with the findings of any investigation undertaken in relation to allegations of non-compliance and any actions taken to address compliance concerns at least 75 days in advance of the commencement of the next ordinary Meeting of the Parties.

(3) The Commission shall forward that information to the SIOFA Secretariat no later than 30 days before the ordinary Meeting of the Parties.

CHAPTER VII
DATA COLLECTION AND REPORTING

Article 40
Data collection

(1) Union fishing vessels shall maintain either an electronic or a bound fishing logbook pursuant to Articles 14 and 15 of Council Regulation (EC) No 1224/2009 and containing the information set out in Annex IV.

(2) Union fishing vessels shall submit to their competent authority the fishing logbook information as soon as possible and no later than 48 hours after landing or at the request of their competent authority.

(3) Flag Member States shall ensure that data on fishing activities, including for target, non-target and associated and dependent species such as marine mammals, marine reptiles, seabirds or other species of concern as defined by the SIOFA Scientific Committee are collected from vessels flying their flag in accordance with the relevant sections of Annex IV.

(4) Flag Member States shall collect catch and effort data on a haul-by-haul basis with the exception of hand-line fishing, where vessel catch and effort data shall be collected on an operation basis whereby an operation is the daily activity of a main vessel including its dories, where catch is the daily catch and effort is the number of active fishermen per day and the number of lines fished per day.

(5) Flag Member States shall report the data collected pursuant to paragraphs 3 and 4 to the Commission by 15 May each year.

(6) Flag Member States shall also provide to the Commission by 15 May each year, annual catch summaries for all species/groups caught in the Area during the previous calendar year. The catch summaries shall include the following information:

(a) calendar year;

(b) FAO statistical area;

(c) species/group name (common name and scientific name);

(d) species/group code (FAO3-alpha code 19) (if available);

(e) annual catch total - tonnes raised to whole live weight.

(7) The Commission shall transmit the data referred to in paragraphs 3, 4 and 6 to the SIOFA Secretariat by 31 May each year.

(8) Flag Member States shall ensure that vessels flying their flag engaged in or intending to engage in bottom fishing in the Area implement on board the FAO Identification guide to the deep-sea cartilaginous fishes of the Indian Ocean.

Article 41
National report

(1) Flag Member States shall provide to the Commission at least 40 days prior to the commencement of each ordinary meeting of the Scientific Committee, an annual National Report concerning their fishing, research and management activities in accordance with the following:

(a) for the first report: the National Report shall include details of activities of the previous five calendar years;

(b) for all reports thereafter: the National Report shall include details of activities of the previous calendar year; and

(c) in either case, the National Report shall take into account the guidelines prepared by the SIOFA Scientific Committee for the preparation of such reports.

(2) The Commission shall send the information referred to in paragraph 1 to the SIOFA Secretariat at least 30 days prior to the commencement of each ordinary meeting of the Scientific Committee.

Article 42
Scientific observer data

(1) Flag Member States shall implement national scientific observer programmes to collect from activities undertaken by vessels flying their flag:

(a) vessel information, effort and catch data for its fishing activities in the Area, including target, non-target and associated and dependent species including marine mammals, marine reptiles, seabirds or other species of concern as defined by SIOFA Scientific Committee;

(b) biological or other data and information relevant to the management of fishery resources in the Area, as specified in CMM 2022/02, as amended from time to time, or as identified from time to time by the Scientific Committee or through processes identified by the Meeting of the Parties; and

(c) relevant scientific information related to the implementation of CMMs.

(2) The function and tasks of the scientific observer are described in Annex D of CMM 2022/02, as amended from time to time.

(3) Flag Member States shall, through their National Report, provide to the Commission an annual observer programme implementation report which should include summary sections covering: observer training, programme design and coverage, type of data collected, and any problems encountered during the previous calendar year.

(4) Flag Member States shall, for all observed trips, collect observer data in accordance with the relevant sections of Annex B of CMM 2022/02, as amended from time to time.

(5) All observer data collected by flag Member States shall be reported to the Commission by 15 May each year for the previous calendar year. The Commission shall send this information to the SIOFA Secretariat no later than 31 May each year for the previous calendar year.

Article 43
Data verification and submission

(1) Flag Member States shall:

(a) pursuant to Article 109 of Council Regulation (EC) No 1224/2009, ensure that fishery data are verified through an appropriate system of data verification mechanisms;

(b) develop, implement and improve data verification mechanisms, which may include:

(a) position verification through vessel monitoring systems;

(b) independent monitoring, including scientific observer programmes and approved electronic observer programmes, to verify industry data on catch, effort, catch composition (target and non-target), discards and other details of fishing operations;

(c) vessel trip, landing and transshipment reports; and

(d) port sampling.

(c) provide to the Commission, through their national report referred to in Article 41, paragraph 1, an annual data verification report which should provide information regarding their development and implementation of data verification mechanisms.

(2) Member States shall report all data required to be reported by this Regulation to the Commission in accordance with the formats described in CMM 2022/02, as amended from time to time, including its annexes:

(a) times, latitudinal/longitudinal information and units of measure are to be reported in accordance with the format described in Annex C of CMM 2022/02, as amended from time to time;

(b) species are to be described using the FAO 3 letter Species Codes;

(c) fishing methods are to be described using the International Standard Classification of Fishing Gear (ISSCFG - 29 July 1980) codes; and

(d) types of fishing vessels are to be described using the International Standard Classification of Fishery Vessels (ISSCFV) codes.

Article 44
Compliance reporting

(1) Member States that perform port inspections, or whose vessels fish or conduct high seas boarding and inspection in the Area shall submit to the Commission no later than 90 days prior to each ordinary Meeting of the Parties information on compliance with this Regulation, including any checks they have imposed on their fleets and any monitoring, control, and compliance measures they have established to ensure compliance with such checks (Compliance Report), including actions and measures related to the IUU fishing.

(2) The Commission shall send the information referred to in paragraph 1 to the SIOFA Secretariat no later than 60 days prior to each ordinary Meeting of the Parties.

CHAPTER VIII
FINAL PROVISIONS

Article 45
Confidentiality and data protection

(1) In addition to the obligations laid down in Articles 112 and 113 of Council 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 SIOFA Secretariat.

(2) All personal data collected, transferred and stored under this Regulation shall be treated in accordance with Regulations (EU) 2016/679 and (EU) 2018/1725.

(3) Personal data processed under this Regulation shall not be stored for a period longer than 10 years, except if those personal data are necessary to allow the follow-up of an infringement, an inspection or judicial or administrative procedures. In those cases, the personal data may be stored for 20 years. If personal data are retained for a longer period, the data shall be anonymised.

Article 46
SIOFA format, data exchange documents and guides

(1) The Commission shall provide Member States that have fishing opportunities for SIOFA fishery resources with CMMs or guides, in particular:

(a) Transshipment Notification (Annex II to CMM 2019/10);

(b) Transshipment Logsheet (Annex III of CMM 2019/10);

(c) Transshipment Declaration (Annex IV of CMM 2019/10);

(d) Transfer Notification (Annex V of CMM 2019/10);

(e) Data for daily information on start and end points of sets (Annex II to CMM 2021/15);

(f) Template to inform SIOFA Secretariat for entering grid cell (Annex V to CMM 2021/15);

(g) Daily information to SIOFA Secretariat on start and end points of set longlines, using the template at (Annex IV to CMM 2021/15);

(h) Notification of each entry to or exit from the Area (Annex I to CMM 2019/10);

(i) the FAO Identification guide to the deep-sea cartilaginous fishes of the Indian Ocean.

(2) The Member States concerned shall ensure that those documents are provided to the masters of their vessels engaged in the SIOFA fisheries at the latest when issuing fisheries authorisation.

(3) The Commission shall send to the Member States concerned updated versions of documents referred to in paragraph 1 as soon as they are adopted by SIOFA Contracting Parties.

Article 47
Delegation of power

(1) The Commission is empowered to adopt delegated acts to amend or supplement this Regulation in accordance with Article 48 concerning measures adopted by the SIOFA in the following areas:

(a) information required for vessel authorisation of Article 4 paragraph 2;

(b) change in type of fishing and permitted fishing gears of Article 6 paragraph 2;

(c) number of catch/recovery of VME-indicator units of Article 7 paragraph 1;

(d) distances within which to cease bottom fishing where evidence of a VME is encountered above threshold levels within the course of fishing operations of Article 7, paragraph 2;

(e) scientific observer coverage for bottom fishing and the introduction of an electronic observer programme referred to in Article 8;

(f) measures for the toothfish fishery in the Del Cano Rise area of Article 9 in relation to period of fishing season, frequency of VMS automatic reporting, number of scientific observers and methodology of observing, tag and release rates, setting lines by fishing vessels, reporting frequency to SIOFA secretariat, depths of setting lines, and measures to protect other species;

(g) measures for the toothfish fishery in the Williams Ridge area of Article 10 in relation to fishing season, tag and release rates, reporting rates and content of reporting to SIOFA secretariat, geographical scope of fishing, number of hooks per line, number of scientific observers and methodology of observing, minimum time break between consecutive fishing trips, and measures to protect other species;

(h) changes to Annexes to this Regulation.

(2) Amendments in accordance with paragraph 1 shall be strictly limited to the implementation of amendments to CMMs concerned into Union law.

Article 48
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 47 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 3 months before the end of each period.

(3) The delegation of power referred to in Article 47 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 47 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.

Article 49
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