

# **Desktop (Phase 1) Quality Assurance Review of the European Union (EU)**

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## EXECUTIVE SUMMARY

This Quality Assurance Review (QAR) is an independent, systematic, evidence-based assessment of the systems and processes that the European Union (EU) has implemented to meet its CCSBT obligations and associated [Minimum Performance Requirements](#) (MPRs) with regard to both:

- Compliance with National Allocations, and
- The CCSBT Catch Documentation System.

The Review Team conducted the desktop ('Phase 1') QAR of the EU during 2020 based on an agreed Terms of Reference (ToR)<sup>1</sup> and taking into consideration:

- information provided by the EU in various reports and any other relevant documents, some provided specifically for this QAR,
- the EU's response to a questionnaire prepared by the Review Team to address obligations being assessed in this QAR, and
- comments provided by the EU on an initial draft of this QAR report.

The scope of this QAR includes a review of the EU's Monitoring, Control and Surveillance (MCS) systems and processes:

- in its distant water bycatch fishery, with emphasis on, "*.... systems and processes in place for the accurate reporting and verification of any bycatch and discards, as well as for recording and verifying any landings of SBT*"<sup>2</sup>, and
- in its capacity as a market State with emphasis on, "*.... systems and processes in place to support requirements for the importation of SBT products including effective implementation of CDS requirements*"<sup>2</sup>.

This QAR was conducted on the understanding that the EU's obligations for CCSBT's measures are the same as those of all other CCSBT Members and that the EU does not have any specific exemptions from these obligations. The EU's commitment to adhere to all CCSBT obligations was provided when it first became a Cooperating Non-Member (CNM)<sup>3</sup> and subsequently a full Member<sup>4</sup> of the CCSBT's Extended Commission (EC).

### Review Team Findings

The Review Team found that the EU has a broad, over-arching legal framework that binds EU Member States to comply with a comprehensive set of EU measures as well as measures adopted by Regional Fisheries Management Organisations (RFMOs) to which the EU is a Contracting Party.

Within this framework, the EU advised that the principle of subsidiarity applies:

*"According to the principle of subsidiarity applied in the EU - decisions are kept with Member States, if Members states have the competence and the intervention of the European Union is not necessary - Members States shall provide relevant information and documents to vessel owners and operators that make them aware of their CCSBT obligations".*

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<sup>1</sup> APPENDIX A

<sup>2</sup> Refer to the ToR, APPENDIX A

<sup>3</sup> APPENDIX B

<sup>4</sup> APPENDIX C

The Review Team acknowledges this keystone principle of the EU system, but also notes that this largely devolved legal framework does not absolve the EU, as the Contracting Party, from being accountable to other CCSBT Members for delivering on its relevant CCSBT obligations.

What was not particularly clear to the Review Team was how the European Commission (DG MARE) ensures that EU Member States are aware of their specific CCSBT obligations and further that those Member States have the relevant specific national laws, systems, and processes in place to effectively implement those CCSBT obligations in respect of their nationals and flagged vessels.

Under the EU's devolved legal framework based on its principle of subsidiarity, it is reasonable to infer that DG MARE would need some form of regular, risk-based monitoring and auditing programme to ensure relevant EU Member States are aware of and are delivering on their legal responsibilities. Without such monitoring and auditing programmes, it would be difficult for the EU to demonstrate to other CCSBT members that it was operating in full compliance with its obligations.

While DG MARE advised that it does undertake regular audits and inspections of EU Member States' control systems to ensure that they comply with all EU obligations, including those contracted at international level, no auditing/inspection programme specifications or reports were provided to the Review Team to demonstrate that relevant EU Member States are indeed aware of and are complying with their legal responsibilities in respect of the EU's CCSBT obligations.

The EU was able to demonstrate that it has comprehensive fishing vessel monitoring and fish product monitoring systems and processes in place. However, based on the information provided, it is clear that these EU monitoring systems and processes have not been designed specifically to meet its CCSBT obligations and associated MPRs relating to CCSBT National Allocations and the CCSBT Catch Documentation System (CDS).

The Review Team understands that the EU has made a policy decision to not permit its vessels to target SBT, however such a policy decision cannot in itself ensure that SBT will not be taken as unexpected bycatch and retained<sup>5</sup>, in which case the relevant CCSBT measures would need to be applied.

Based on the information provided by the EU, the Review Team concluded that, due to the small and non-directed nature of the EU's participation in the SBT fishery, the EU has determined that it was not necessary or cost-effective to implement specific systems and processes required to fully comply with its CCSBT obligations and associated MPRs.

However, the Review Team recognises that the EU's SBT fishery is a very small non-targeted/bycatch fishery with a current total annual catch limit of 11 tonnes and that under current policy and regulatory settings, the EU is unlikely to exceed this very small catch limit. Therefore, there is little risk of the EU's fishery having a significant adverse impact on the sustainability of the overall SBT stock.

Further, the Review Team notes that some CCSBT obligations are not always well aligned with the unique and limited nature and extent of the EU's participation in the SBT fishery. While it is outside the scope of this QAR's terms of reference to recommend any changes to CCSBT obligations and MPRs, the EU itself may wish to propose to the Extended Commission that it:

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<sup>5</sup> The EU does not permit SBT to be discarded (refer to APPENDIX F – Annex IF)

- Consider amendments and/or exemptions to the CCSBT's Catch Documentation Scheme to enable the EU to cost-effectively implement the scheme and so assist it to meet its CCSBT CDS obligations; and
- Consider a review of some of the MPRs associated with CDS obligations to determine if they are appropriate for the nature and extent of the EU's participation in the SBT fishery.

In conclusion, the Review Team found that the EU could not satisfactorily demonstrate that it is fully compliant with all of its CCSBT obligations and associated MPRs in respect of National Allocations and the CCSBT Catch Documentation System.

## Review Team Recommendations

It is recommended that the Commission for the Conservation of Southern Bluefin Tuna:

1. **Note** the European Union desktop (Phase 1) Quality Assurance Review report carried out between February and November 2020.
2. **Note** the Review Team's findings that the European Union could not satisfactorily demonstrate that it was fully compliant with all of its specific CCSBT obligations and related Minimum Performance Requirements for:
  - National Allocations, and
  - Catch Documentation System.

It is recommended that the EU:

1. **Consider** implementing the recommendations/ opportunities for improvement summarised in section 5.4 of this report, and/or
2. **Consider** submitting a proposal to the CCSBT's Extended Commission to review pertinent CCSBT obligations (notably some CDS obligations) and their associated Minimum Performance Requirements (MPRs) to take into account the nature and extent and the management risks associated with the EU's limited participation in the SBT fishery.

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## ABBREVIATIONS

CC	Compliance Committee (of the CCSBT)
CDS	Catch Documentation Scheme
CFP	Common Fisheries Policy
CLAV	Consolidated List of Authorised Vessels (compiled from the 5 tuna RFMOs)
CMF	Catch Monitoring Form
CNM	Cooperating Non-Member of the CCSBT
CPG	Compliance Policy Guideline
CTF	Catch Tagging Form
CV	Carrier Vessel
EC	Extended Commission (of the CCSBT)
EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agriculture Organisation of the United Nations
FTF	Farm Transfer Form
FV	Fishing Vessel
ICCAT	International Commission for the Conservation of Atlantic Tunas
IOTC	Indian Ocean Tuna Commission
LSTLV	A tuna longline fishing vessel with Freezing Capacity <i>(A vessel is deemed to have Freezing Capacity if it has a freezer which is capable of storing more than 500 kilograms of SBT at -30°C or below)</i>
MCS	Monitoring, Control and Surveillance
MPRs	Minimum Performance Requirements
OSEC	Other State/Fishing Entity Cooperating in the CDS
QAR	Quality Assurance Review
REEF	Re-export/ Export after Landing of Domestic Product Form
RFMO	Regional Fisheries Management Organisation
SBT	Southern Bluefin Tuna
TAC	Total Allowable Catch
ToR	Terms of Reference
VMS	Vessel Monitoring System
WCPFC	Western and Central Pacific Fisheries Commission

# 1. INTRODUCTION

This Quality Assurance Review (QAR) is an evidence-based desktop review of the European Union (EU) against specific CCSBT obligations and was conducted for the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) by a two-person Review Team.

It is the final QAR in an initial series of QARs undertaken for all CCSBT Members, each generally conducted against the same (partial) set of CCSBT obligations<sup>6</sup>. QARs for the other seven CCSBT Members (Australia, Indonesia, Japan, Korea, New Zealand, South Africa and Taiwan) were completed between 2013 to 2018.

## Purpose and Scope

The purpose of this QAR is to document and evaluate whether the EU's systems and processes meet the obligations set out in sections 1.1 and 3.1 of the CCSBT's Compliance Policy Guideline 1: "[Minimum Performance Requirements to meet CCSBT Obligations](#)"(CPG4):

- 1.1 Compliance with National Allocations, and
- 3.1 Catch Documentation System.

These obligations are drawn from three CCSBT Resolutions:

- The "Resolution on the Allocation of the Global Total Allowable Catch"<sup>7</sup>;
- The "Resolution on Limited Carry-forward of Unfished Annual Total Allowable Catch of Southern Bluefin Tuna within Three Year Quota Blocks"; and
- The "Resolution on the Implementation of a CCSBT Catch Documentation Scheme".

The primary objective of these key CCSBT obligations is to ensure that Members and Co-operating Non-Members (CNMs) of the CCSBT have implemented adequate systems and processes to meet these obligations and ensure they do not exceed their Allocation of the global Southern Bluefin Tuna (SBT) catch and are compliant with the Catch Documentation Scheme (CDS).

## Background

The EU was formally accepted as a Cooperating Non-Member (CNM) of the CCSBT on 13 October 2006 and became a Member of the CCSBT's Extended Commission (EC) from 13 October 2015.

The EU has only a small annual Southern Bluefin Tuna (SBT) allocation (11t) which it reserves exclusively for SBT bycatch<sup>8</sup>. The EU has not reported any SBT bycatch since 2012 and trade records indicate that only very small amounts of SBT have recently been imported by the EU.

During 2019 when the Terms of Reference (ToR) for this QAR were agreed, the EU had twenty-eight Member States including three distant water Member State longline fleets (Portugal, Spain, and the

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<sup>6</sup> All QARs except the 2013 reviews of Australia, Japan, Korea and NZ and this review of the EU also included consideration of transshipment obligations

<sup>7</sup> Allocations and total available catch limits of CCSBT Members are set by binding decisions made at annual meetings of the CCSBT's Extended Commission (EC)

<sup>8</sup> Refer to APPENDIX F (Annex IF)

UK) it has regularly CCSBT-authorized. For this reason, some of the observations in this report are focused on these three EU Member States and their fleets. Note that the UK ceased being an EU Member State from 1 January 2020 but is included in this QAR since it predominantly considers information that pre-dates 2020. However, the Review Team recognises that since the UK is no longer an EU Member State, the EU is not able to consider any recommendations relating specifically to the UK fleet.

## 2. METHODOLOGY (Phase 1 – Desktop QAR)

### Remote Desktop Review

This QAR is a desktop review that was conducted by the Review Team by remote consultation. The review did not include any in-person site visits or physical inspections to verify the physical presence/implementation of the documented systems and processes, and was carried out by liaising with a nominated official from DG MARE (Brussels).

For a desktop (Phase 1) QAR, the onus rests with the Member, in this case the EU, to demonstrate, by providing relevant supporting documentation, that it meets the CCSBT obligations being examined.

The QAR was conducted on the understanding that the EU's obligations for CCSBT's measures are the same as those of all other CCSBT Members and that the EU does not have any specific exemptions from these obligations.

### Appointment of Review Team/ Agreement of QAR Methodology

In October 2019, CCSBT 26 agreed the Terms of Reference (ToR)<sup>9</sup> for the EU QAR with the provision that, based on the results of this initial QAR, the CCSBT's Extended Commission (EC) would determine whether any additional QAR assessments (for the EU) are necessary.

As required by the QAR ToR, a two-person Review Team<sup>10</sup> was confirmed and advised to CCSBT Members in December 2019. A Methodology for the EU QAR was then developed by the Review Team in consultation with the EU, and subsequently approved by the CCSBT's Executive Secretary and Compliance Committee (CC) Chair on 23 January 2020 (APPENDIX A).

### EU Documentation

The conclusions of this QAR are based upon the available EU documentation consulted which included:

- documents which have already been provided to the CCSBT Secretariat especially annual National Reports to the Extended Scientific Committee (ESC) and/or the Compliance Committee (CC)/ Extended Commission (EC);
- any relevant EU legislation identified;
- other relevant reports and/or communications to the CCSBT Secretariat; and
- additional documents provided specifically for this QAR which were:
  1. The process flow diagrams in section 4 of this report;
  2. The report from the EU describing its compliance and catch monitoring arrangements (APPENDIX D);
  3. The Review Team's questionnaire and the EU's responses – April 2020 (APPENDIX E); and
  4. The EU's comments on the draft QAR including a selection of seven additional supporting documents provided by the EU in April 2020 which are listed on the last page

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<sup>9</sup> Refer to Annex A of APPENDIX A (QAR Methodology)

<sup>10</sup> Information about the Review Team is available in Annexes B and C of APPENDIX A

of APPENDIX E as well as an additional nine<sup>11</sup> potentially pertinent documents provided by the EU on 29/01/21 following receipt of the Draft QAR.

As specified by the QAR ToR for assessing the suitability of systems, this QAR takes into account the particular circumstances and characteristics of the EU (*i.e.* absence of a target SBT fishery) and will provide a high-level review of the EU's MCS systems in the following two areas:

- **Distant Water Bycatch Fishery** – emphasis will be placed on the systems and processes in place for the accurate reporting and verification of any bycatch and discards, as well as for recording and verifying any landings of SBT; and
- **Market State** – emphasis will be placed on the systems and processes in place to support requirements for the importation of SBT products including effective implementation of CDS requirements.

In the documents that the EU provided for the QAR, it was noted that EU catch information is recorded through logbooks, and that observer reports, Flag State and Port State inspections might also contribute to the calculation of catches. Due to this and the emphasis to be placed on reviewing systems for reporting and verification of bycatch and discards, the Review Team considered it important to check how much information from these other data sources appeared to be available for the EU's Portuguese, Spanish and UK longline fleets that have fished within SBT distribution areas.

## Review Process & Report Format

This report includes the following elements:

Sections	Description
1 & 2	Introduction and Methodology
3	<p>Main body of the report: Provides an overview of the effectiveness of the EU's fisheries management systems in meeting the relevant Minimum Performance Requirements (MPRs). It is a step-by-step assessment of the available documentation against each Minimum Performance Requirement (MPR) or set of MPRs.</p> <p>For each MPR or set of MPRs the following is provided:</p> <ul style="list-style-type: none"> <li>• A list of any relevant QAR questionnaire numbers (APPENDIX E);</li> <li>• A summary of the pertinent available information;</li> <li>• A small summary table listing any identified/ numbered Strengths (S), Weaknesses (W) and Threats (Risks) – (R) which are part of the 'SWOT' analysis detailed in section 5 of this report<sup>12</sup>. The notation used for the S/W/T items is: <ul style="list-style-type: none"> <li>○ – Overarching SWOT item,</li> <li>NA – National Allocations specific SWOT item, or</li> <li>CDS – Catch Documentation Scheme specific SWOT item; and</li> </ul> </li> <li>• Review Team conclusion.</li> </ul>

<sup>11</sup> The EU provided a total of 13 additional supporting documents on 29/01/21, however 4 of those (3 port inspection reports and 1 port entry request) were for vessels that either had no fish on board or had not fished within the SBT distribution area. Therefore, the Review Team did not consider 4 of the additional 13 documents provided to be pertinent to this report and these are not listed in APPENDIX E.

<sup>12</sup> The Opportunities (Recommendations) part of the SWOT analysis is included only in Section 5.4 of this report

<b>4</b>	Process Flow Maps provided by the EU to illustrate the operating systems and processes it has implemented in relation to the obligations being assessed
<b>5</b>	The Strengths, Weaknesses, Opportunities and Threats (risks) <i>i.e.</i> SWOT analysis
<b>6</b>	Conclusion
<b>7</b>	Post Final Report Member comments
<b>8</b>	Appendices

## Definitions and Guidance for Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis

To maintain consistency, the same definition guidelines for strengths (S), weaknesses (W), opportunities (O) and threats (T) used in previous QAR reports<sup>13</sup> will also be used here:

**(S) Strengths** – Areas where the Review Team determine there is strong substantiated and documented evidence suggesting a high probability of conformity to an MPR clause.

**(W) Weaknesses** – Areas where the Review Team determine the evidence presented some risk of non-conformity to an MPR clause.

**(O) Opportunities** – Determined as Recommendations by the QAR procedure. Areas of potential improvement of the Member/CNM Management System which could reduce the risk of non-compliance against a specific or a number of MPR clauses.

**(T) Threats** – Areas that may present a risk of non-compliance of the Member System to their CCSBT obligations under Compliance Policy Guideline 1 and MPRs included in the QAR.

N.B Threats are considered a risk outcome or consequence of areas that are identified as weaknesses during the SWOT analysis.

## Review Team Conclusions and Recommendations

With respect to the Review Team’s conclusions and recommendations note that:

- The findings and recommendations in this QAR are based upon the documentary evidence available, including references to any applicable supporting legislation, correspondence or other relevant reports consulted;
- Assessments of EU performance against MPRs have been categorised as either: ‘Compliance Demonstrated’ or ‘Compliance Not Demonstrated (Table 1); and
- The EU was given an opportunity to comment on the draft QAR outcomes and recommendations before the final report was published.

*Table 1: Review Team Conclusion Terminology*

<b>Conclusion Terminology</b>	<b>Definition</b>
Compliance Demonstrated	Sufficient documentary evidence was available for the Review Team to conclude that the EU has demonstrated that it meets the MPR(s)
Compliance not Demonstrated	Either insufficient or no documentary evidence was available for the Review Team to conclude that the EU has demonstrated that it meets the MPR(s)

<sup>13</sup> Refer to the overall QAR reports provided each year (including for the trial reports), for example [CCSBT-CC/1310/12](#), section 3.5.12

## SBT Distribution Area

For the purpose of this QAR, the SBT distribution area, means CCSBT statistical area 1 plus the area between 30°S-50°S in all CCSBT statistical areas except for CCSBT statistical area 12 (which is within the IATTC Convention Area).

### 3. REVIEW OF IMPLEMENTATION OF MPRs

The Review Team examined available documentation regarding the EU’s implementation of CCSBT’s obligations and MPRs associated with Compliance with Nation Allocations and the Catch Documentation System (Resolution).

#### 3.1 COMPLIANCE WITH NATIONAL ALLOCATIONS

The aim of obligations associated with national allocations is to ensure that Members’ catches do not exceed their annual Total Available Catch Limit<sup>14</sup>. CCSBT agreed a definition of “Attributable Catch” which aims to ensure that, “A Member or CNM’s attributable catch against its national allocation is the total Southern Bluefin Tuna mortality resulting from fishing activities within its jurisdiction or control<sup>15</sup>” (refer to section 3.1.3 for the full definition).

Therefore, it is important that appropriate monitoring of all fishing-related mortality including of all bycatch and discards needs to occur (*e.g.* by checking of logbooks and daily reports, scientific observers and/or potentially use of electronic monitoring, and potentially during offloading by port sampling, and/or Flag State or port State inspections, *etc*) in order for any incidental bycatch of SBT to be accurately recorded and ‘Attributable SBT Catch’ (*i.e.* all SBT mortalities) to be calculated.

#### General Background Information

The EU has only a small allocation which is only available for SBT bycatches. Table 2 provides a summary of the EU’s SBT allocation/ catch limits since 2010.

Table 2: The EU’s Effective Catch Limits/ Total Available Catch of SBT Since 2010

Year	SBT Effective Catch Limit <sup>16</sup> (tonnes)	SBT Total Available Catch <sup>14</sup> (tonnes)
2010 – 2017	10	10
2018	11	13
2019 – 2020	11	11

The EU provided summary information to the Review Team including that:

- The EU’s current quota allocation (11t) is to be used exclusively to account for any SBT bycatch (not targeting of SBT); and
- EU vessels are prohibited from targeting SBT, any incidental catches are the result of EU surface long-liners’ by-catches, operating in the zone of SBT distribution, mainly targeting swordfish, in the Southern part of the Indian, Western and Central Pacific and Atlantic Oceans. On a yearly basis the EU Fishing Opportunities Regulations prohibit the targeting of SBT and explicitly mention that the allocated EU quota is to be used exclusively to account for any SBT by-catch (APPENDIX F).

<sup>14</sup> Total Available Catch Limit means a Member’s Effective Catch Limit allocation for that quota year plus any amount of unfishable allocation carried forward to that quota year

<sup>15</sup> Except where a vessel is chartered to a person or entity of another Member or CNM, and if a catch is attributable to that Member or CNM.

<sup>16</sup> The Effective Catch Limit is the Member’s SBT allocation plus any adjustments for agreed short term changes to the National Allocation, for example temporary transfers

### 3.1.1 Compliance with National Allocation OBLIGATION i. MPR1

#### MPR 1

1. Rules in place to ensure that the total “Attributable SBT Catch” of each Member/ CNM does not exceed the Member’s/ CNM’s Total Available Catch Limit<sup>17</sup> for the relevant period.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s): Q2 (response)

#### Review Team Observations

The Council Regulation on fishing opportunities is updated and issued in January each year and reflects any updates to the EU’s CCSBT Total Available Catch (of SBT) for the calendar year.

For example, for the 2020 year, Annex IF of [COUNCIL REGULATION \(EU\) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters](#) (APPENDIX F) sets out the EU’s 2020 SBT catch limit of 11t which is exclusively for SBT by-catches<sup>18</sup>.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O); S1(NA)
Weaknesses	W1-2(O)
Risks (Threats)	R1(O)

#### Review Team Conclusion: **Compliance Demonstrated**

- Appropriate laws are in place to set the EU’s SBT catch limit annually.

<sup>17</sup> Total Available Catch Limit means a Member’s Effective Catch Limit allocation for that quota year plus any amount of unfished allocation carried forward to that quota year.

<sup>18</sup> Refer to footnote 1 of Annex IF (APPENDIX F)

### 3.1.2 Compliance with National Allocation OBLIGATION i. MPR2a

#### MPR 2a

2. Operating systems and processes established to:
  - a. implement annual catching arrangements, including:
    - i. Specification of allocations by company, quota holder or vessel;
    - ii. Arrangements for daily recording of all catches; and
    - iii. Weekly reporting of catches by large scale tuna longliners and monthly reporting of catches by coastal fishing vessels.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q2, Q3

#### Key Points from Documents Provided by the EU including Annual Reports

With respect to recording of data into logbooks as well as transmission of that information, the EU's 2019 annual report to CC/EC<sup>19</sup> notes that:

*“According to European Commission implementing [Regulation \(EU\) No 404/2011 of 8 April 2011](#)<sup>20</sup>, when at sea the master of an EU fishing vessel shall transmit the electronic fishing logbook information to the competent authorities of the flag Member State at least once a day and no later than 24.00 hrs even when there are no catches. He/she shall also send such data:*

- (a) at the request of the competent authority of the flag Member State;*
- (b) immediately after the last fishing operation has been completed;*
- (c) before entering into port;*
- (d) at the time of any inspection at sea;*
- (e) at the time of events defined in EU legislation or by the flag State.”*

#### Review Team Observations

As the EU has reserved its SBT allocation exclusively for bycatch, no allocation systems and processes are required.

Appropriate overarching EU legislation is in place to require that logbook recording and reporting occurs daily. This is more frequently than required by the CCSBT.

No documents illustrating Member State daily (or weekly) receipt of logbook reports were provided to the Review Team by the EU. However, in its comments on the draft QAR<sup>21</sup>, the EU did provide a screen-shot of Spanish documentation as well as a Portuguese spreadsheet of species codes illustrating that SBT (listed as “SBF”) is included in the list of species in Spanish logbooks as well as in the list of species that may be reported by electronic data transmission by Portuguese fishing vessels.

<sup>19</sup> Refer to p8, [CCSBT-CC/1909/SBT Fisheries – European Union](#)

<sup>20</sup> Section 2, Article 47 of Regulation No 404/2011

<sup>21</sup> APPENDIX N

<b>SWOT Analysis</b>	<b>Corresponding Reference Number in SWOT Analysis (section 5)</b>
Strengths	S1-3(O), S2-3(NA)
Weaknesses	W1-3(O)
Risks (Threats)	-

**Review Team Conclusion: Compliance not Demonstrated**

***Allocation***

- As the EU's has reserved its SBT allocation exclusively for bycatch, no allocation systems and processes are required.

***Daily Recording and Weekly Reporting of All Catches***

- The EU advised that [Regulation \(EU\) No 404/2011 of 8 April 2011](#) is considered as part of the domestic law of EU Member States and this regulation requires daily reporting of logbook information;
- However, while some supporting material was provided by the EU, this material did not demonstrate that the key EU Member State fleets (Portugal, Spain and the UK) have operating systems and processes in place to implement the EU's **daily** reporting regulations and which would more than meet the CCSBT's requirements of daily recording and weekly reporting of all catches.

### 3.1.3 Compliance with National Allocation OBLIGATION i. MPR2b & c

#### MPRs 2b and c

2. Operating systems and processes established to:
  - b. Monitor all fishing-related mortality of SBT.
  - c. Ensure accuracy of the “Attributable SBT Catch”, including:
    - i. For fishing Members/CNMs, a physical inspection regime of SBT caught by the Member’s/CNM’s fishing vessel; and
    - ii. For farming Members/CNMs, monitoring the method used for estimating the weight of the SBT catch and adjusting/ re-calibrating where necessary.

**Note: MPR 2cii does not apply to the EU.**

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, 18 (MPR 2b), 19

#### Background Information

The CCSBT’s definition of the Attributable Catch was updated in 2014 to widen the scope of Member’s or Cooperating Non-Members’ (CNM) catch that is counted against its allocation. CCSBT 21 agreed on the following common definition for the Attributable SBT Catch:

*“A Member or CNM’s attributable catch against its national allocation is the total Southern Bluefin Tuna mortality resulting from fishing activities within its jurisdiction or control<sup>22</sup> including, inter alia, mortality resulting from:*

- *commercial fishing operations whether primarily targeting SBT or not;*
- *releases and/or discards;*
- *recreational fishing;*
- *customary and/or traditional fishing; and*
- *artisanal fishing.”*

Recording and monitoring all potential SBT fishing-related mortality (including bycatches and discards) can be achieved through a combination of accurate identification and logbook recording, and verification by, for example, scientific observer programmes, port sampling, flag and port State inspections, and transshipment monitoring if relevant.

The EU has not reported any SBT mortality resulting from fishing activities between 2013 and 2019 inclusive, *i.e.* not immediately preceding or since the definition of Attributable Catch was updated.

#### Key Points from Documents Provided by the EU including Annual Reports

The EU has provided information that (for example APPENDIX D, end of section 1):

*“Catches are recorded through logbooks (electronic) and fishing reports, which are validated by the scientific bodies, as well as observer reports and flag State inspections. Port State inspections, reports and any related information provided by foreign States, notably those having fisheries agreements with the EU, might also contribute to the calculation of the catches.”*

<sup>22</sup> Except where a vessel is chartered to a person or entity of another Member or CNM, and if a catch is attributable to that Member or CNM.

The Review Team first considered the available information about EU logbook reporting. Then, since the EU provided advice that other information sources may be used to contribute to the verification and/or calculation of catch, e.g. observer reports, and Flag and potentially also Port State inspections, the Review Team considered it important to examine how much of this additional information appears to be available for the EU's Portuguese, Spanish and UK longline fleets that fish within SBT distribution areas.

#### i. Logbook Recording of Bycatch (and Discards if permitted)

[Article 14\(1\) of COUNCIL REGULATION \(EC\) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy](#) describes all the catch information that needs to be recorded in EU Member fishing vessel logbooks as:

*"1. Without prejudice to specific provisions contained in multiannual plans, masters of Community fishing vessels of 10 metres' length overall or more shall keep a fishing logbook of their operations, indicating specifically all quantities of each species caught and kept on board above 50 kg of live-weight equivalent. ...."*

*3. The permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 10 % for all species.*

*4. Masters of Community fishing vessels shall also record in their fishing logbook all estimated discards above 50 kg of live-weight equivalent in volume for any species."*

The above EU law demonstrates that there are logbook requirements in place for recording all potential species catches of above 50kg. The EU also advised that for SBT, CCSBT rules prevail and that all catches of SBT must be recorded even if catches are less than 50kg (QAR Q 5). However, one potential issue with unverified logbook recording is that bycatches of SBT could be misidentified, particularly considering the difficulties of distinguishing SBT from other tunas, especially if species are rarely caught.

Note that the discarding of large (such as tunas) and small pelagic species subject to quota has not been permitted by the EU since 1 January 2015 at the latest (QAR Q 4, APPENDIX G – Landing obligation).

#### ii. Monitoring of Catch/Discards (by Scientific Observers)

The EU has consistently provided information that it has no specific SBT scientific observer programme. For example, its [2019 annual report](#) to the CC/EC notes:

*"There is no specific SBT observer program as there are no fisheries targeting SBT and no substantial by-catches of SBT (zero in 2016, 2017 and 2018). However, there is an observer program aiming to reach at least 10% of observers for the EU long-liners targeting swordfish, sometimes in association with sharks, in the southern hemisphere. In addition, the EU is implementing observer programmes according to the requirements of other tuna RFMOS."*

In addition, in its recent annual reports to the CCSBT's ESC, the EU has reported that it has: *"No observer program for SBT fisheries."*<sup>23</sup>

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<sup>23</sup> Refer to Annex 1 of [CCSBT-ESC/1909/SBT Fisheries – European Union](#) (p27) and Annex 1 of [CCSBT- ESC/1809/SBT Fisheries – European Union](#) (p20)

However, the EU does have scientific observer programmes for its target fisheries within the areas of competence of the International Commission for the Conservation of Atlantic Tunas (ICCAT), Indian Ocean Tuna Commission (IOTC) and the Western and Central Pacific Fisheries Commission (WCPFC) in areas where SBT are caught. The minimum target fishery observer coverage levels prescribed by the relevant RFMO are not always achieved by the EU but these programmes could potentially detect SBT bycatch (QAR Q 8 response):

*“Observer programmes are also in place according to other tuna RFMOs obligations. These programmes have been progressively implemented and in some cases the rate of coverage is still increasing to reach at least the minimal level requested by the respective tuna RFMO. The EU in coordination with its Members States involved in IOTC fisheries is looking to increase the rate of observer coverage”.*

### iii. EU Scientific Observer Coverage of Longline Fleets

This part of the report provides a summary of the information the Review Team found for the EU’s target fisheries that overlap with SBT distribution areas within RFMO Convention Areas. Information on observer coverage in target fisheries is presented in this QAR because this is one additional dataset the EU mentions it may use to verify catch information.

QAR Q 13 to the EU asked whether it could provide:

*“For the period 2016 to 2019 inclusive, please provide a table showing annual EU longline fishing effort (hooks) and percentage observer coverage (hooks) that occurred in CCSBT statistical area 1 and between 30°S – 50°S in CCSBT statistical areas 2 - 9 and 14, 15 by Flag by year by CCSBT stat area.”*

The EU responded that:

*“This information is not available as such and it is not an obligation to the EU vessels to ensure any observer coverage in the mentioned areas..... However, observers are deployed in the EU Longliners entering in the SBT distribution area according to the requirements of the relevant tuna RFMO (IOTC, ICCAT and WCPFC) .... Thus, the information available concerning observer coverage relates to global fishing areas as the Atlantic Ocean, Indian Ocean and Western and Central Pacific Ocean, where these vessels have been active targeting other species than SBT.”*

#### ***Indian Ocean: IOTC Area of Competence***

APPENDIX H provides a detailed summary (a table each for the Portuguese, Spanish and UK fleets followed by a brief summary) of the EU’s scientific observer coverage of its target fisheries in the IOTC Area of Competence between 2010 to 2018.

At least for longline trips by EU-flagged longliners within the IOTC Convention Area, in some years there appears to have been either no or little scientific observer coverage of the EU’s target fisheries in the Spanish or UK fleets occurring below 30°S, *i.e.* in areas where SBT are more likely to occur.

In its response to the draft QAR the EU stated that globally the EU fleet is complying with the IOTC’s 5% observer coverage in the Indian Ocean, however the Review Team notes that while the whole EU fleet combined may have achieved 5% observer coverage, from IOTC reports it is evident that observer coverage has been very low or zero in the Spanish longliner fleet fishing south of 30°S in the IOTC area.

### *Atlantic Ocean: ICCAT Convention Area*

APPENDIX I provides a summary of the information found by the Review Team on levels of longline scientific observer coverage in the ICCAT Convention Area provided in the EU's 2018 and 2019 National reports to CC/EC.

There was little information available in annual reports to the CCSBT – approximately 5% scientific observer coverage was reported in the S. Atlantic in 2018 for the Portuguese longline fleet and 15% coverage in the whole ICCAT area by the Spanish longline fleet. The Review Team did not find any information about how much target fishery scientific observer coverage occurred South of 30°S within the ICCAT Area. In its response to the draft QAR, the EU provided additional information that with respect to scientific observer coverage of surface longline fisheries in the Atlantic:

*“... the geographical coverage changes every year, sometimes not covering the fishing grounds south of 30°S”.*

### *Western & Central Pacific: WCPFC Convention Area*

APPENDIX J provides a summary of the information found by the Review team on levels of longline scientific observer coverage provided in the EU's 2018 and 2019 National reports to CC/EC. Target fishery observer coverage was advised to be, “about 15%” in 2018 and “about 10%” in 2017, but there was no information on whether any of that observer coverage occurred South of 30°S. In its response to the draft QAR, the EU stated with respect to scientific observer coverage in the WCPFC Area:

*“... Scientific observers fully covered fishing trips in fishing grounds south of 30° South”.*

The Review Team is unsure as to the meaning of, “fully covered” in this statement.

#### **iv. Information Provided about EU Port Sampling Programmes**

A summary of the relevant information found by the Review Panel is provided in APPENDIX K.

Port sampling is another potential means of verifying catch and species composition but is not a CCSBT obligation. It is included in this report because in its response to the QAR questionnaire the EU provided information that port sampling information might be used to cross-check logbook information if available. For example, the EU stated:

*“Port sampling and self-sampling are undertaken on a voluntary basis by Member States, when possible, in other tuna RFMOs in order to gather catch information, namely for scientific purposes” (Q 8), and “The detection of any bycatches and/or discards of SBT is anchored on information and cross checking of data from logbooks, landing declarations and sales notes, observer reports, port and high-seas inspections, electronic observation (when available), self-sampling and port sampling (when available)” (Q 19).*

However, the EU's response to the draft QAR clarified that:

*“..... currently there are no Port sampling on EU longliners entering the SBT distribution area, ....”,*

and that currently port sampling only applies to purse seiners.

## v. Information Provided about Flag and/or Port State Inspections of EU Vessels

Inspections, for example Flag and/or port State inspections were noted by the EU as sources which might provide additional catch information.

The EU provided the information that (APPENDIX D):

*“EU surface longliners fishing intermittently in SBT distribution area use, among others, ports in some CCSBT Members, such as South Africa and New Zealand, where vessels are inspected. In addition, inspections are also undertaken in other ports, notably in countries having Sustainable Partnership Fisheries Agreements with the EU that in general are subject to the FAO or other tuna RFMO port inspection obligations.”*

The QAR questionnaire (Q 14) requested that the EU provide information for each year between 2016 to 2019 inclusive, regarding what percentage of longliner trips/longliners that fished at any time within the SBT distribution area were inspected by each Flag State (Portugal, Spain or the UK) while the catches from the SBT distribution area were still on board or being offloaded.

The EU’s response did not provide any information on the number of these longliners that were inspected by relevant Flag States but instead noted that, *“An important part of the catches of EU longliners (all flag states) operating in the Southern Atlantic Ocean, Indian Ocean and Western and Central Pacific Ocean is channelled to the Port of Vigo in Spain in containers transported by carriers. Between 2016 and 2019 inclusive, there were 27 port inspections of the mentioned carriers and there were no infringements detected related to SBT.”* (Q 14).

It is not known how many of the port inspected 27 Carrier Vessels mentioned above were carrying fish caught by Portuguese, Spanish or UK longliners that had fished in SBT distribution areas. However, in an additional table provided in response to the draft QAR (refer to the table on the 9<sup>th</sup> page of APPENDIX N), the EU confirmed that at least one EU-flagged Container Vessel which had fishing products on board from EU vessels that had operated in the SBT distribution area was port/landing inspected in the EU<sup>24</sup> in 2018.

In this same supplementary table, there is also a list of 6 example EU-flagged longliners that were CCSBT-authorized that underwent port/landing inspections after steaming back to their original ports in Spain during the 2018 to 2020 period<sup>25</sup>.

Also, amongst the supplemental documents provided following receipt of the draft QAR are six inspection reports which could be pertinent to the QAR because the longliners listed were recorded as having fished either in the High Seas of the Indian Ocean, or the Indian and Pacific Oceans, or the WCPFC-IATTC Area. However, again it is not clear whether any of these inspected longliners fished within the SBT distribution area of those oceans. No SBT<sup>26</sup> or issues are recorded in these six reports.

### Review Team General Observations

The summary document submitted by the EU (APPENDIX D, end of section 1) summarises that:

*“Catches are recorded through logbooks (electronic) and fishing reports, which are validated by the scientific bodies, as well as observer reports and flag State inspections. Port State inspections, reports and any related*

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<sup>24</sup> The inspection was listed as occurring in Noriberica, Spain

<sup>25</sup> However, the text is unclear as to whether these 6 CCSBT-authorized EU-flagged longliners had fished in the SBT distribution area

<sup>26</sup> Although the list of species caught is not always available

*information provided by foreign States, notably those having fisheries agreements with the EU, might also contribute to the calculation of the catches.”*

The Review Team notes that the Spanish longline fleet had the highest fishing effort levels, but that scientific observer coverage levels (for target species) have been at a very low level (e.g. an average of 1.72% of hooks observed between 2010-2018 in the IOTC Area), and so provide little data for cross-checking logbooks. From at least 2016 (and potentially 2015) onwards, no scientific observer coverage of target EU fisheries is recorded below 30°S for Spanish longliners fishing in the IOTC Area of competence. Regarding observer coverage, the EU did advise that, *“in some cases the rate of coverage is still increasing to reach at least the minimal level requested by the respective tuna RFMO”* (Q 8).

The Spanish fleet is also described as operating far from port bases with vessels perhaps not calling into home ports for several years (IOTC report). Consequently, there is a low chance of flag State port sampling and/or inspections occurring

In summary, there have been low levels of (or no) scientific observer coverage south of 30°S (where SBT are likely to occur) in at least the Spanish and UK longline fleets within the IOTC Area since 2013, no current flag State port sampling, and an unknown level of Flag/Port State inspections of EU longliners. Therefore, there appears to be very limited data available to supplement and verify logbook data for fish caught in areas south of 30°S, at least within the IOTC Area.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-4(O), S1-4(NA)
Weaknesses	W1-3(O), W1-4(NA)
Risks (Threats)	R1,5(O); R1-3(NA)

**Review Team Conclusion: Compliance not Demonstrated**

**General recording of Potential Bycatches and Discards**

- There are sufficient over-arching EU rules in place to require that any SBT that is bycaught should be retained and recorded in logbooks, although issues identifying SBT, especially if caught infrequently and not verified through cross-checking against other data sources, could mean that SBT bycatch is inadvertently misidentified.

**Scientific Observer Coverage**

- The Spanish fleet has a high effort level within the IOTC area of competence and a low level of nominal effort coverage (as reported to IOTC) for its target fisheries, with apparently no reported scientific observer coverage below 30°S between 2015 – 2018, and so at least in these latter years, scientific observer reports cannot have been available for monitoring of potential SBT mortalities by Spanish longliners fishing south of 30°S.

**Flag State Port Sampling**

- For Portuguese and UK longliners that fish in the IOTC Area of Competence, EU reports confirm that catches are not landed in EU Member States and that Flag State port sampling does not occur. . In its response to the draft QAR, the EU confirmed that there is currently no port sampling of longliners that entered the SBT distribution area.

**Flag State/ Port State/ High Seas Inspections**

- The EU did not provide the requested information regarding the percentage of longliner trips/longliners that fished at any time within the SBT distribution area that were inspected by each Flag State (Portugal, Spain or the UK) while the catches from the SBT distribution area were still on board or being offloaded

- The EU did not provide any specific information on how many EU Member-flagged longliners that fished in the SBT distribution area were inspected by CCSBT port Members such as New Zealand or South Africa or by other non-EU port authorities while catches from the SBT distribution area were still on board or being offloaded. The EU instead noted that there had been some inspections by port authorities in foreign ports and 3 high seas inspections by foreign inspection vessels (WCPFC Area) since 2016. (QAR Q 15, Q 16).
- In supplementary information provided in response to the draft QAR, the EU provided 6 port State inspection reports for EU-flagged longliners that may have fished below 30°S, as well as a table of 7 EU Flag State inspections that occurred in Spain between 2018 and 2020 where no infringements or SBT were recorded.

#### **Summary**

- The Review Team noted either a paucity or lack of independent data sources such as scientific observer reports, Flag State and Port State inspections and port sampling being available for EU longliners which fish in SBT distribution areas (notably South of 30°S), particularly within the IOTC Area of Competence. The inspection reports and table of inspections submitted in response to the draft QAR did not indicate if the longliners concerned had fished South of 30°S. Therefore, there appears to be limited availability of these other data to contribute towards effective monitoring and cross-checking against logbook data for potential SBT bycatch.
- This in turn means that there is an associated greater risk that not all SBT bycatch mortalities will be detected/ reported.

### 3.1.4 Compliance with National Allocation OBLIGATION i. MPR3

#### MPR 3

3. All fishing-related SBT mortality is reported annually to the Extended Scientific Committee, for incorporation into stock assessment analysis, and to the Commission.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 17

#### Key Points from Documents Provided by the EU including Annual Reports

Annual National reports to the ESC have been provided by the EU since 2014 onwards but were not provided between 2010 to 2013. However, National reports to the Compliance Committee including annual catch information have been provided since at least 2010 onwards.

From historical data submitted by the EU, there appears to be some conflicting information between catch totals reported in National Reports and monthly catch reporting figures for the period 2010 – 2012 (Table 3).

Table 3: SBT Catch Reported by the EU Between 2010 to 2019

Year	Reported Catches Against Allocation from the EU's Annual CC/EC Report to CC8 <sup>27</sup> in 2013 (t)	Total Catch from Monthly Catch Reports (t)
2010	10.8	2.9
2011	3.3	9.9
2012	4.04	4.4
2013 – 2019 inclusive	0	0
<b>Total</b>	<b>18.14</b>	<b>17.2</b>

In addition, the EU's 2019 report to the ESC<sup>28</sup> includes a table that indicates that all historical bycatches from 2000 onwards were taken in the Indian Ocean (Table 4).

However, two annual reports to the CC/EC include text information seem to infer that some SBT bycatch has been taken within the WCPFC Convention Area during that period, for example:

*"The small amount of EU SBT catches is normally landed along with other species of tuna by-catch (Thunus alalunga, etc.) and sold fresh on local markets for consumption or sometimes donated to charity. Fish caught in the WCPFC area is landed in Papeete (Tahiti), whereas fish caught in the IOTC area is landed in Durban (South Africa)"<sup>29</sup>, and*

*"The small amount of EU SBT by-catches is either consumed by the vessel crew or given to local workers in the port of landing that assist with off-loading the vessel. By-catches of SBT taken in the WCPFC Convention Area*

<sup>27</sup> Refer to p3, [CCSBT-CC/1310/SBT Fisheries – EU](#), which is the only CC report that provides the 2012 catch with decimal places

<sup>28</sup> p1, [CCSBT-ESC/1909/SBT Fisheries – European Union](#)

<sup>29</sup> Section 8, p4 (top of page), [CCSBT-CC/1209/SBT Fisheries – EU](#)

are off-loaded in Papeete (Tahiti), and by-catches taken in the IOTC Convention Area are off-loaded in Durban (South Africa).”<sup>30</sup>

Table 4: Reported Catches from the EU’s 2019 National Report to the ESC<sup>28</sup>

Area	Year	SBT reported catch (tonnes)
Indian Ocean	2000	0
Indian Ocean	2001	0
Indian Ocean	2002	0
Indian Ocean	2003	3
Indian Ocean	2004	22
Indian Ocean	2005	0
Indian Ocean	2006	3
Indian Ocean	2007	18
Indian Ocean	2008	14
Indian Ocean	2009	2
Indian Ocean	2010	11
Indian Ocean	2011	3
Indian Ocean	2012	4
All	2013	0
All	2014	0
All	2015	0
All	2016	0
All	2017	0
All	2018	0

Table 1. Total reported EU bycatch of SBT.

### Review Team General Observations

This MPR concerns whether the ESC reporting obligations were met rather than the accuracy of the information provided. The accuracy of the information is discussed under MPRs 2b and c in section 3.1.3 of this report.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S2(O), S5(NA)
Weaknesses	W1(O), W4(NA)
Risks (Threats)	-

### Review Team Conclusion: **Compliance Demonstrated**<sup>31</sup>

- SBT catches have been reported annually to the ESC since 2014 onwards, and annually to CC in National reports since at least 2010, and there have been no recorded SBT mortalities reported by the EU since 2013 onwards; but
- There are some anomalies in the annual SBT catch totals reported from different sources.

<sup>30</sup> p12, section II(5) and p15, section III(1) of [CCSBT-CC/1310/SBT Fisheries – EU](#)

<sup>31</sup> The Review Team’s conclusion is ‘Compliance Demonstrated’ because the EU has submitted annual reports to the ESC as required. However, there remain questions concerning the quality of the information contained in those annual reports especially with respect to detecting and reporting all fishing-related SBT mortality - refer to the Review Team’s comments in Section 3.1.3 of this report concerning MPRs 2b and c.

### 3.1.5 Compliance with National Allocation OBLIGATION i. MPR4a

#### MPR 4a

4. Operating systems and processes applied to:
  - a. monitor compliance with annual catching arrangements;

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 1, 8, 14, 15, 16, 19

#### Key Points from Documents Provided by the EU including Annual Reports

The EU has advised that it does not have in place a separate system to monitor SBT catches but that potential SBT bycatches are monitored by logbooks, observer reports, CDS and inspection reports as in the following National report extracts:

*“The quantities of SBT caught by EU vessels are unavoidable minor by-catches. The EU has not put in place a separate system specifically aimed at monitoring catches of SBT as EU legislation prohibits the targeting of SBT. Nevertheless, several mechanisms have been put in place to help the crew identify the different tuna species, urging that all catches of SBT are recorded properly”<sup>32</sup>, and*

*“The EU has not put in place a separate system specifically aimed at monitoring catches of SBT since it does not actively participate in fishing for this stock.”<sup>33</sup>.*

Importantly the EU’s 2019 Annual Report notes:

*“Control of catches is done through observer reports, logbooks (electronic) fishing reports, EU CDS (notably when exported to third countries requesting it), port State control and reports and information provided by States having fisheries agreements with the EU”<sup>34</sup>.*

However, no examples of relevant Port State control and reports were provided. In addition, section 3.1.3 of this QAR report includes details of low levels of scientific observer coverage of EU target fisheries in SBT distribution areas.

The EU also described the fishing methods it uses to target swordfish which may help prevent/minimise any SBT bycatch:

*“... EU Surface longliners use a selective gear to target swordfish. The fishing gear operates at a 15 to 20m depth, while SBT fisheries are normally done in a higher depth. The main line used by the EU longliners has normally 3.6 mm diameter and they use wire leaders of 1.9 to 2.0 m., in opposition longline fisheries targeting SBT use much thinner main lines and do not utilize wire leaders. In addition, the bait used by EU vessels is mackerel and squid and the bait used in SBT longline fisheries is normally sardines or similar species. For these reasons, it is unlikely that EU surface longline vessels catch any SBT.”*

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-4(O), S2-3(NA)
Weaknesses	W1-3(O), W1-3(NA)
Risks (Threats)	R1-3(O), R1,3(NA)

<sup>32</sup> Refer to p12, Section II(4)b of [CCSBT-CC/1310/SBT Fisheries - EU](#)

<sup>33</sup> Refer to p9, Section II(5) of [CCSBT-CC/1410/SBT Fisheries - EU \(Rev.1\)](#)

<sup>34</sup> Refer to p8, [CCSBT-CC/1909/SBT Fisheries – European Union](#)

**Review Team Conclusion: Compliance not Demonstrated**

- The Review Team recognises that the EU has responded that it has in place logbook reporting and some limited scientific observer coverage within ICCAT, IOTC and WCPFC Convention Areas in SBT distribution areas, and that these arrangements are in place primarily for fulfilling the requirements of target fisheries within those Convention Areas, and are not specifically aimed at monitoring catches of SBT.
- The Review Team also notes the operational fishing information provided on how EU longliners fish to target swordfish in a way that may prevent/minimise SBT bycatch.
- Insufficient documentation from EU Member States was provided for the Review Team to determine if the EU's overarching compliance monitoring arrangements have been translated into effective domestic operating systems and processes by the key flag States concerned – Portugal, Spain and the UK (refer to section 3.1.3).

### 3.1.6 Compliance with National Allocation OBLIGATION i. MPR4b

#### MPR 4b

4. Operating systems and processes applied to:
  - b. impose sanctions or remedies where necessary.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 2, 33 (response)

#### Key Points from Documents Provided by the EU including Annual Reports

Section 2.1 of the EU's summary document provided for this QAR (APPENDIX D, section 2.1) provides some information about the EU's Common Fisheries Policy (CFP) which is the overall legal framework for all EU fishing activities around the world, as well as information on the core control elements of the EU legislation. The EU noted in various extracts that according to EU law, the CFP and the EU Regulations apply directly and are considered as part of the domestic laws of EU Member States (Q 33 response), for example:

*"In line with Article 21 of the SMEFF Regulation (EU) 2017/2403, a flag Member State may issue a fishing authorisation only if the rules laid down by the RFMO or the transposing Union law are complied with. If an operator does not comply with the rules of the RFMO, Member States are entitled not to grant or renew the authorisation. Moreover, if an operator does not comply with rules of an RFMO, this creates an infringement, which is liable to a sanction under the Title VIII of the Control Regulation (EC) No 2009/1224. This is in line with Article 7 of the SMEFF Regulation ...."*

In addition, the EU provided the following extensive information on monitoring in its 2019 National Report regarding applicable legislation and penalties:

"

- *Regulation on Illegal, Unregulated and Unreported Fishing (Regulation (EC) No 1005/2008) of 29 September 2008 which entered into force on 1 January 2010 and Regulation (EU) No 1010/2009 on its implementation.*
- *EU Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy of 20 November 2009:*

*Article 90 of Control Regulation and Articles 44, 45 and 46 of IUU Regulation provide for sanctions for serious infringements taking into account such as the nature of the damage, its value, the economic situation of the offender and the extent of the infringement or its repetition, the value of the prejudice to the fishing resources and the marine environment concerned.*

*Article 91 of Control Regulation and Article 43 of IUU Regulation provide for immediate enforcement measures.*

*Articles 92 of the Control Regulation provide for the establishment of a point system for serious infringements assigned to the holder of the fishing licence of the vessel and to the master of the vessel with the aim to ensure compliance with the rules of the Common Fisheries Policy and a level playing field in all waters where the EU vessels operate.*

*Article 37 of IUU Regulation specify that if a vessel is included in the EU IUU list the following applies:*

- *withdrawal of fishing authorisation*
- *prohibition of any fishing operations and chartering*
- *prohibition of authorisation to change crew*

- importation/landing/exportation of its products prohibited, etc.
- European Commission implementing Regulation (EU) No 404/2011 of 8 April 2011.

Sanctions as referred to in Article 91 of Control Regulation and Articles 44 and 45 of IUU Regulation must be:

- effective, proportionate and dissuasive administrative sanctions for serious infringements, without prejudice of criminal sanctions, that may, inter alia, include:
  - maximum sanction of at least 5 times (8 times for the case of repeated offenses) the value of the fishery products
  - sequestration, immobilisation of fishing vessel
  - confiscation of fish and prohibited gear, etc.
  - suspension/withdrawal of authorization to fish
  - ban on access to subsidies

- Regulation (EU) No 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets.

Article 7 specifies that a flag Member State shall on a regular basis monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation. If, as a result of the final outcome of the monitoring activities there is evidence that the conditions on the basis of which a fishing authorisation has been issued are no longer met, the flag Member State shall take appropriate action, including amending or withdrawing the authorisation and, if necessary, imposing sanctions. The sanctions applied shall be sufficiently stringent to ensure effective compliance with the rules, to prevent infringements and to deprive offenders of the benefits derived from infringements. The flag Member State shall immediately notify the operator and the Commission thereof. Where relevant, the Commission shall notify the secretariat of the ... RFMO concerned accordingly."

### Review Team General Observations

There appears to be a more than adequate system of overarching EU sanctions and remedies in place.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1,3,-4(O)
Weaknesses	W1-3(O)
Risks (Threats)	-

### Review Team Conclusion: **Compliance Demonstrated**

- Based on existing EU law, there appear to be adequate systems and processes in place for the EU to impose sanctions and remedies where necessary; and
- The Review Team notes that according to EU law, the CFP and the EU Regulations apply directly and are considered as part of the domestic laws of EU Member States.

### 3.1.7 Compliance with National Allocation OBLIGATIONS ii. iii. iv. & v. MPR 1

#### MPR 1

1. For Members that decide to adopt the carry-forward procedure (regardless of whether carry-forward was used in a particular year):
  - a. Operating systems and processes must be in place to ensure that:
    - i. an accurate, verified and robust figure for the final Attributable Catch is available before the Secretariat is notified of the carry-forward,
    - ii. a report on the adoption and use of the carry-forward procedure, together with documentation on quantification and verification of the total Attributable SBT catch is included in each annual report to the Extended Commission;
  - b. For Members intending to carry forward unfished quota to the next quota year, the Executive Secretary is formally notified of that Member's Total Attributable SBT Catch (in whole weight) for the concluded quota year together with the revised Total Available Catch Limit<sup>35</sup> for the new quota year within 90 days of receiving the Secretariat's confirmation request.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: None

#### Background

The Carry-forward Resolution only applies to Members (not Cooperating Non-Members) and therefore could only be utilised by the EU after it became a Member of the Extended Commission from 2016 onwards. The EU has only applied the Carry-forward Resolution on one occasion - it carried forward 2t from its 2017 to its 2018 season, to give it a Total Available Catch Limit (for 2018) of 13t. An appropriate notification was provided to the CCSBT Secretariat within the required 90-day timeframe.

#### Key Points from Documents Provided by the EU including Annual Reports

The EU's annual report to CC/EC in 2019 noted that:

*"In 2018, the EU carried-forward 2 tonnes of its 2017 unfished quota, to prevent an over-utilisation of its quota caused by unlikely extra-incident catches. However, taking into account the improbability of such extra-incident catches it is unlikely that the EU requests any carry-forward in the future."*

#### Review Team General Observations

Appropriate operating systems and processes are in place.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O), S1(NA)
Weaknesses	-
Risks (Threats)	-

#### Review Team Conclusion: **Compliance Demonstrated**

- The single carry-forward notification received from the EU was received as appropriate and within the required timeframe.

<sup>35</sup> Total available catch means a Member's Effective Catch Limit allocation for that quota year plus any amount of unfished allocation carried forward to that quota year.

## 3.2 CATCH DOCUMENTATION SYSTEM (Resolution)

The aim of this set of obligations is to ensure that Members have processes in place to effectively and accurately implement the CCSBT's Catch Documentation Scheme (CDS) when SBT are caught and retained. Note that the EU has not permitted discards of large pelagic species for which catch limits exist such as tunas since 1 Jan 2015 (APPENDIX G). Therefore, any SBT bycatch must be retained and so would be subject to CDS obligations.

### 3.2.1 CDS OBLIGATIONS A (General) i. to v. MPR 1a

#### MPR 1a

1. Operating systems and processes established and implemented to ensure that:
  - a. all owners and operators of authorised farms, fishing vessels, and carrier vessels, and all SBT processors, importers, exporters and re-exporters, are aware of their CCSBT obligations<sup>36,37</sup>;

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 21, 24, 33  
(response)

#### Key Points from Documents Provided by the EU including Annual Reports

The EU provided information that (QAR Q 21):

*“DG MARE provides relevant information and guidance to Member States related to CCSBT CDS obligations. However, the responsibility to provide information to owners and operators is in general a competence of the EU Member States. According to the principle of subsidiarity applied in the EU - decisions are kept with Member States, if Members states have the competence and the intervention of the European Union is not necessary - Members States shall provide relevant information and documents to vessel owners and operators that make them aware of their CCSBT obligations, e.g. SBT tagging and CDS documentation requirements..... Members States have different ways/mechanisms to provide this information to stakeholders to make them aware of their CCSBT obligations. This could be done through circulars, publications in the official site of the relevant national authority, organised training events and dedicated workshops and through fishing authorisations.”*

#### Review Team General Observations

The EU has over-arching legislation which binds EU Member States to comply with measures adopted by RFMO Commissions to which the EU is a Contracting Party. Responsibility for awareness of those obligations is devolved to Member States. The EU provided the Review Team with an example Spanish surface longline fishing permit for the South Atlantic, down to 45°S (note document 5, refer to p128), which lists SBT as a potential (by)catch species. In the legislation section, this permit lists applicable EC/EU Regulations, as well as specifically referring to applicable measures from ICCAT. However, it does not refer to any specific CCSBT measures.

This seems to contradict with the statement made in the document (section 5.2.3) of APPENDIX D: *“The authorizations (Permisos temporales de pesca) issued by Spain for each of the vessels include references to the obligations in force in all relevant RFMOs, including CCSBT.”*

<sup>36</sup>In the case of authorised carrier vessels that are not flagged to a Member, the carrier vessel masters need to be aware of the authorising Member's obligations so that the carrier vessel can comply with these.

<sup>37</sup> In the context of the MPRs (CPG1), MPR1a means that the listed entities should be aware of their CCSBT CDS obligations

The review team understands the EU also advised the CCSBT Secretariat that:

*“... Member States do not issue fishing authorisations that specifically allow EU vessels to target and fish for SBT, because this is prohibited for EU vessels.”*

Therefore, if CCSBT requirements are not mentioned (with respect to bycatch) in the example Spanish permit provided, the Review Team has concerns whether there is an awareness of and monitoring of CCSBT requirements (at least for the Spanish longline fleet in the South Atlantic), especially taking into account the EU’s response to QAR Q 33 which was that:

*“3. A flag Member State shall on a regular basis monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.”*

In its response to the draft QAR (APPENDIX N – comments pertaining to p15 of the draft), the EU noted that:

*“ Where appropriate and justified fishing permits could be updated to further include CCSBT information and in order to facilitate the implementation of the EU’s reporting on SBT”,* and in comments pertaining to p31 of the draft QAR:

*“... DG MARE is currently working with Member States to provide additional training to its operators and further include CCSBT relevant obligations and information in the fishing licences”.*

<b>SWOT Analysis</b>	<b>Corresponding Reference Number in SWOT Analysis (section 5)</b>
Strengths	S1-2(O); S3(CDS)
Weaknesses	W1-3(O), W1-5,8 (CDS)
Risks (Threats)	R2-4(O), R1,5,7,9(CDS)

**Review Team Conclusion: Compliance not Demonstrated**

- The EU has an over-arching legal framework that binds EU Member States to comply with measures adopted by RFMO Commissions to which the EU is a Contracting Party.
- The legal responsibility to ensure all stakeholders are aware of their particular CCSBT obligations is devolved to Member States.
- No DG MARE documents or key EU Member State documents (e.g. Spain, Portugal or the UK) were provided to the Review Team as evidence that CCSBT obligations are being clearly communicated to relevant stakeholders, e.g. the Review Team was not provided with any stakeholder-targeted documents that clearly set out CCSBT CDS obligations to authorised fishing vessels, processors, importers, exporters and re-exporters such as the requirement to tag any retained SBT at kill and to fill out the appropriate Catch Documentation Scheme (CDS) documents (CMFs), including validating and certifying these.
- An example Spanish fishing permit authorisation for the S. Atlantic (see p128) was provided by DG MARE, but while this permit refers to applicable ICCAT measures, it does not mention applicable CCSBT measures that should be applied in the event of any SBT bycatch.
- In addition, no DG MARE monitoring and auditing reports or quality assurance reports were provided to demonstrate to the Review Team that the relevant EU Member States are complying with EU law and their CCSBT obligations, although in its response to the draft QAR, the EU stated that, *“The last audits on the external fleets did not show any issues related to SBT, although it should be noted that this was not the main objective of the audit”*.

### 3.2.2 CDS OBLIGATIONS A (General) i -v): MPR 1b

#### MPR 1b

1. Operating systems and processes established and implemented to ensure that:
  - b. CDS documents accompany SBT as relevant, including:
    - i. a Catch Monitoring Form (CMF) for all transshipments, landings of domestic product, exports, imports and re-exports
    - ii. a Re-export/Export After Landing of Domestic Product (REEF) for all exports of SBT landed as domestic product then exported, and for all re-exports of imported SBT. Any REEF must also be accompanied by a copy of the associated CMF and copies of any previously issued REEFs for the SBT being exported
    - iii. a Farm Transfer Form (FTF) for all transfers of SBT between authorised farms within the Member's jurisdiction;

**Note: MPR b.iii is not relevant to the EU.**

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 22, 23, 34

#### Background

The EU recorded catches of SBT in 2012 and prior to 2012, but has reported a nil bycatch of SBT by its vessels since 2013.

The EU is a market State which currently receives occasional low volumes of SBT imports. Ensuring that any SBT imports are accompanied by the appropriate CDS documents is important.

#### Key Points from Documents Provided by the EU including Annual Reports and the EU's Response to the Draft QAR

The EU advised that:

*"EU IUU Regulation requests Member States to check the EU catch certificate or its accepted equivalent (e.g. CCSBT CD) prior to accepting the import (Art. 16 and 17)."*

In the response above, checking of the EU Catch Certificate is a "request" and not a requirement. Articles 16 and 17 of the EU IUU Regulation are provided at APPENDIX L - Article 17(2) on verification clarifies that these are checks that "may" be done:

"2. Verifications may, in particular, consist in examining the products, verifying declaration data and the existence and authenticity of documents, examining the accounts of operators and other records, inspecting means of transport, including containers and storage places of the products and carrying out official enquiries and other similar acts, in addition to the inspection of fishing vessels at port under Chapter II.

However, in its response to the draft QAR the EU commented that this was probably a language mistake, and in practical terms this is a requirement.

In addition, the EU noted that:

*"For SBT caught by EU vessels and directly shipped to the EU no catch certificate is required, but general CCSBT CDS rules apply (see also reply to questions 21 and 31)." (QAR Q 22)*

In its draft response to the QAR the EU also advised that:

*“Imports of fisheries (not aquaculture) products are accompanied by a catch certificate (IUU Reg. Article 12), meaning that in the rare case of SBT imports that would not be accompanied by such documentation it would not be accepted into the EU.”*

### Review Team General Observations

According to the data submitted to the CCSBT Secretariat in National reports and monthly catch reports, between 2010 and 2012 the EU caught between 17.2 and 18.1t of SBT (Table 5) that would have been expected to be recorded on CDS forms. However, no CCSBT EU CDS forms were issued/ submitted to the CCSBT Secretariat for that SBT catch.

Table 5: EU Reported Catch of SBT

Year	Reported Catch According to Annual CC/EC Report to CC8 <sup>38</sup> in 2013 (t)	Total Catch According to Monthly Reports (t)
2010	10.8	2.9
2011	3.3	9.9
2012	4.04	4.4
2013 – 2019 inclusive	0	0
<b>Total</b>	<b>18.14</b>	<b>17.2</b>

In addition, since 2010, the EU has received SBT imports associated with 176 CDS import forms, but only 5 import forms have been submitted to the CCSBT. It is not known whether the remaining 171 imports were accompanied by appropriate CDS documentation and whether or not the EU import States checked the SBT was accompanied by appropriate CCSBT CDS documentation.

Since imports do occur, though rarely in recent years, re-exports could potentially also occur.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O); S3(CDS)
Weaknesses	W2-3(O); W1(CDS)
Risks (Threats)	R2-4(O), R8(CDS)

### Review Team Conclusion: Compliance not Demonstrated

- The EU was asked to provide documentation illustrating the systems and processes which are in place to ensure that any retained SBT that is landed, transhipped, exported, re-exported and/or imported SBT is accompanied by the appropriate CDS documentation, especially imports, however no specific example documents were provided.
- In the past, many SBT import CDS documents have not been certified and submitted to the CCSBT Secretariat as required.
- The Review Team was not provided with any evidence that EU Members are informed of the need to use CDS REEF documents should an EU Member wish to re-export (imported) SBT.
- The case study concerning the import form belatedly received from Germany (section 3.2.12) illustrates a case where Germany seemed unaware of its responsibility to record SBT imports appropriately, to check CDS forms, and to certify and submit the relevant CCSBT CDS import forms to DG MARE for submitting to the CCSBT Secretariat. In addition,

<sup>38</sup> Refer to p3, CCSBT-CC/1310/SBT Fisheries – EU, which is the only CC report that provides the 2012 catch with decimal places

the EU advised that aquaculture products are not required to be accompanied by Catch Certificates, potentially creating some confusion amongst EU importers as to whether farm-fattened SBT product (originally sourced from the wild) would need to be accompanied by Catch Certificates.

### 3.2.3 CDS OBLIGATIONS A (General) i -v): MPR 1c, 1d, 1e

#### MPR 1c, d, e

1. Operating systems and processes established and implemented to ensure that:
  - c. all entities with CDS certification obligations have certification requirements, including: that the certifier for the Catch Tagging Form (CTF) should be the Vessel Master or other appropriate authority for any wild harvested SBT, and the Farm Operator or other appropriate authority for any farmed SBT;
  - d. all entities involved in towing and farming SBT have procedures to:
    - i. record the following items about the catch from each catching vessel:
      1. the daily mortality of SBT during catching and towing, and
      2. the quantity (number and weight in kilograms) of SBT transferred to each farm
    - ii. use these records to complete the Farm Stocking Form at the end of each fishing season and before the SBT are recorded on a CMF;
  - e. compliance with certification procedures is verified.

**Note: MPR 1d is not relevant to the EU.**

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 21, 24, 26

#### Key Points from Documents Provided by the EU including Annual Reports

The EU advised that:

*“The mechanisms that the EU has to ensure that all Member States are informed and should apply and comply with all CCSBT Conservation and Management Measures are described in the responses to the questions 2 and 21. In fact, DG MARE/European Commission provides the legal basis and provisions to the national authorities to carry out the legally required checks ....*

*The correct application of the law in force is the competence of the national authorities and to a large extent the EU has to rely on this.” (QAR Q 24)*

#### Review Team General Observations

Appropriate CDS certification is a Member State responsibility. Of the 5 copies of CDS import forms submitted by the EU, only one was appropriately certified upon initial receipt.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O); S3(CDS)
Weaknesses	W1-3(O); W2,5 (CDS)
Risks (Threats)	R2-4(O), R8(CDS)

#### Review Team Conclusion: Compliance not Demonstrated

- The EU advised that the principal of “subsidiarity” applies, *i.e.* that responsibility is devolved to Member States
- Only 1 of the 5 import CDS forms submitted to the CCSBT Secretariat by the EU was appropriately certified upon initial receipt, which suggests EU Member States may be unaware of their CDS certification responsibilities
- No documents were provided by the EU illustrating the operating systems and processes established and implemented by EU Member States to ensure that all entities with CDS certification obligations have certification requirements and that compliance with certification procedures is verified.

### 3.2.4 CDS OBLIGATIONS A (General) i -v): MPRs 2 and 3

#### MPRs 2 and 3

2. Any use of specific exemptions to CDS documentation (allowed for under obligation 3.1 A (ii) for recreational catch) must be:
  - a. explicitly allowed and this decision advised to the Executive Secretary; and
  - b. have associated documented risk-management strategies to ensure that associated mortalities are accounted for and that recreational catches do not enter the market.
3. Operating system and processes established and implemented to ensure all CDS documents are uniquely numbered, and completed fully and in accordance with the document's instructions;

**Note: MPR 2 is not relevant to the EU as it has no SBT recreational fisheries.**

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 25, 26

#### Review Team General Observations

The EU has not issued any CDS documents and so to date the requirement of unique numbering has not been applied in practice. The EU did not provide any documents to illustrate that appropriate processes are in place should CCSBT CDS documents need to be issued. In addition, some of the few import CDS documents received were not fully completed.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O)
Weaknesses	W1-3(O), W1(CDS)
Risks (Threats)	R2-4(O), R8(CDS)

#### Review Team Conclusion: Compliance not Demonstrated

- No documents were provided by the EU illustrating the operating systems and processes established and implemented to ensure that any CDS documents that may need to be issued will be uniquely numbered.
- Of the 5 CDS import documents submitted to the CCSBT, only 1 was filled out and certified as required upon initial receipt, and an additional 2 were completed fully following correspondence between the CCSBT Secretariat and DG MARE. Two import forms did not have the import details filled in at all as required by the CCSBT CDS. Therefore, it appears that there is little awareness amongst EU Member States about how to fill out CCSBT CDS import documents, and limited checking by Member States and DG MARE to ensure that CDS requirements have been met before import documents are submitted to the CCSBT Secretariat.

### 3.2.5 CDS OBLIGATIONS A (General) vi. MPR 1

#### MPR 1

1. Operating systems and processes established and implemented to ensure that at all times only carrier vessels authorised on the CCSBT Record of Carrier Vessels for the transshipment date are permitted to receive at-sea transshipments from the Member's LSTLVs.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 27, 28

#### Background Information

The EU has never authorised the transshipment of SBT from its flagged Fishing Vessels to Carrier Vessels on the list of CCSBT-authorized CVs, and there is no record of any EU transshipments that involve SBT having occurred.

#### Key Points from Documents Provided by the EU including Annual Reports

Chapter 2, Section 1, Article 4(4) of the EU's "IUU Regulation"<sup>39</sup> states that:

*4. Fishing vessels flying the flag of a Member State shall not be authorised to tranship at sea catches from third country fishing vessels outside EU waters unless the fishing vessels are registered as carrier vessels under the auspices of a regional fisheries management organisation.*

The EU's response to QAR Q 27 clarifies that:

*"The referred EU longliners do not transship at sea and authorisations to transship at sea have not been given to any of these vessels. Moreover, the EU does not participate in any of the at sea transshipment programmes or schemes existing in Tuna RFMOs."*

Further, the EU's 2012 Compliance Action Plan<sup>40</sup> notes:

*"... Spanish national legislation prohibits all transshipments at sea operations", and in its response to the draft QAR the EU advised that, "this also applies to Portugal, at-sea transshipment is an infraction according to national law."*

#### Review Team General Observations

The EU does not currently have any CCSBT-authorized Carrier Vessels and has not issued any authorisations for its flagged fishing vessels to tranship SBT at sea.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O), S1-2(CDS)
Weaknesses	W2(O)
Risks (Threats)	R2-3(O), R4(CDS)

#### Review Team Conclusion: **Compliance Demonstrated**

- Based upon the information provided the EU complies with this MPR by not CCSBT-authorising EU-flagged Carrier Vessels and by not having authorised its Portuguese, Spanish and UK longliners to tranship at sea<sup>41</sup>.

<sup>39</sup> P7, [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

<sup>40</sup> [CCSBT-CC/1209/Compliance Action Plan – EU](#) (p5)

<sup>41</sup> It was not clear to the Review Team if the EU has monitoring regimes to ensure that there is a high level of compliance with its non-transshipment policy

### 3.2.6 CDS OBLIGATIONS A (General) vi. MPR 2a and b

#### MPRs 2a and b

2. Rules established and implemented to prohibit:
  - a. the landing, transshipment, import, export or re-export of SBT caught or transhipped by non-authorized fishing/carrier vessels;
  - b. the transfer of SBT to, between or harvested from farms which were not authorised to farm SBT on the date(s) of the transfers/ harvests.

**Note: MPR 2b does not apply to the EU.**

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: 27, 28, 29

#### Background Information

Table 6 provides a summary of the number of EU CCSBT-authorized fishing vessels since 2010. No Spanish vessels were CCSBT-authorized during 2018.

*Table 6: Number of EU CCSBT-Authorised Fishing Vessels*

Year	Portugal	Spain	United Kingdom	Total
2010	34	80	0	114
2011	29	75	0	104
2012	29	75	0	104
2013	28	75	0	103
2014	28	74	0	102
2015	27	74	0	101
2016	27	72	0	99
2017	31	72	2	105
2018	24	0	2	26
2019	23	73	2 <sup>42</sup>	98
2020	25	77	0	102

#### Key Points from Documents Provided by the EU including Annual Reports

The EU's annual report to CC13<sup>43</sup> provides information that:

*"No foreign ports have been designated for transshipment of SBT."*

The Review Team notes the EU's response to the questionnaire (QAR Q 29) that:

*"... Ship-owners and masters willing to have their fishing vessels operating in the SBT distribution area have their respective vessels CCSBT authorised. In fact, there is no reason that ship-owners do not request a CCSBT vessel registration if there is an intention to enter in the mentioned area. This has been discussed and emphasised with Member States in the last few years and, consequently, the list of EU vessels has been*

<sup>42</sup> Authorised for only the first 3 months of 2019

<sup>43</sup> [CCSBT-CC/1310/SBT Fisheries EU – II\(3\) 4.\(b\)i\).\(p11\)](#)

*extended to integrate all vessels risking entering in the SBT distribution area, and the list of EU authorised vessels will be updated, whenever necessary”.*

### **EU-Spanish Longline Fleet Fishing in 2018**

The Review Team understands that while the EU did not CCSBT-authorise Spanish longliners for 2018, Spanish longliners did fish south of 30°S (where SBT are generally distributed). For example, in its 2019 annual ESC report<sup>44</sup> the EU reported (data were not yet available for Spain):

- *“In 2018, there were 37 EU longliners (29 from Spain and 8 from Portugal) operating in the South Atlantic (ICCAT), mainly operating outside the SBT distribution area.....”*
- *“In 2018 (last WCPFC report), there were 3 Spanish longliners operating in the Southwest Pacific Ocean that had some fishing trips in the SBT distribution area.”*

The EU’s 2019 report to the IOTC’s Scientific Committee<sup>45</sup> confirms that Spanish longliners also fished in the IOTC area during 2018 including south of 30°S<sup>46</sup>:

- *“A total of 11 longline units have been operating in the Indian Ocean during the year 2018, some on them alternating the Indian and other oceans.*

According to the EU, for non CCSBT-authorised vessels (QAR Q 29) such as the Spanish longliners in 2018:

*“..... any EU vessel not entered in the Record would not be authorized to retain SBT on board, which is in line with article 20 of the SMEFF Regulation”, and,*

*“In conclusion, in the unlikely event, that a non CCSBT-authorized vessel enters in the SBT distribution area, catch, land and/or tranship any SBT this would be a breach of the rules that apply to all EU fishing vessel and therefore it would be treated as an infringement of the Common Fisheries Policy rules by the competent authorities.”*

### **Review Team General Observations**

Not all EU longliners fishing in SBT distribution areas have been CCSBT-authorised/ promptly CCSBT-authorised in the past.

No Spanish longliners operating in the IOTC (11), ICCAT (29) or WCPFC (3) areas were recorded as having been CCSBT-authorised during 2018 even though they had some fishing trips that went into the SBT distribution area. Therefore, they would not have been authorised to retain any incidental bycatch of SBT that could potentially be taken (but SBT discards are not permitted<sup>47</sup>).

In addition, for the 2019 calendar year, the European Union’s authorisations of its Portuguese and Spanish longline fleets were not received until 02/04/19 and 27/03/19, at which point those vessels were retrospectively authorised back to 01/01/19.

Further, as at 01/09/20, no EU fishing vessels had been CCSBT-authorised for 2020. The EU subsequently retrospectively CCSBT-authorised 25 Portuguese and 77 Spanish vessels for the 2020 calendar year/ season on 14/09/2020 with the comment:

*“Please note that none of these vessels are authorised to target Southern Bluefin Tuna (SBT) but that they shall be authorised only for the case that they incidentally have SBT as bycatch. The*

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<sup>44</sup> P2, [CCSBT-ESC/1909/SBT Fisheries – European Union](#)

<sup>45</sup> p91, [IOTC-2019-SC22-NR05](#) (Spain), plus maps (p96) confirm that some longline fishing effort by Spanish longliners did occur south of 30°S in the IOTC Area of Competence during 2018

<sup>46</sup> This was subsequently confirmed in the EU’s response to QAR Q 12

<sup>47</sup> Refer to the EU’s response to QAR Q 4

*administrative oversight occurred probably because no real fishing authorisations for CCSBT are issued by the flag Member States, as the EU is not allowed to fish for SBT.”*

The EU advised that, “no real fishing authorisations”, means that:

*“... Member States do not issue fishing authorisations that specifically allow EU vessels to target and fish for SBT, because this is prohibited for EU vessels. However, SBT bycatches are possible and allowed (Fishing Opportunities Regulation: currently Council Regulation (EU) 2020/123 of 27 January 2020, which is up-dated on a yearly basis).”*

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O); S1-2(CDS)
Weaknesses	W2-4(O)
Risks (Threats)	R2-4(O), R1,2,4(CDS)

**Review Team Conclusion: Compliance not Demonstrated**

- Rules have been established and implemented to prevent SBT fishing activity by non-authorized fishing/carrier vessels and the EU stated, *“This has been discussed and emphasised with Member States in the last few years and, consequently, the list of EU vessels has been extended to integrate all vessels risking entering in the SBT distribution area, and the list of EU authorised vessels will be updated, whenever necessary”*;
- However, there have been some EU (Spanish) vessels that were not CCSBT-authorized which had some fishing trips in the CCSBT distribution area during 2018, and additionally many EU vessels have only been CCSBT-authorized retrospectively;
- The Review Team has concerns that, *“no real fishing authorisations for CCSBT are issued by the flag Member States”*, may mean that CCSBT requirements are not included in EU Member fishing vessel authorisations so that EU Member States may not be aware of the CCSBT’s CDS requirements should they take SBT as bycatch.

### 3.2.7 CDS OBLIGATIONS B (Modifications to CDS documents) vii. viii. and ix. MPRs 1-3

#### MPRs 1-3

1. The Executive Secretary shall, in consultation with Members, determine whether proposed modifications are minimal or significant with respect to this obligation.
2. Modified documents remain compatible with approved forms to ensure data series remain continuous and so they can be uploaded by the Secretariat.
3. Modified documents are provided to the Executive Secretary in electronic format at least 4 weeks prior to the use of such documents and with proposed modifications clearly highlighted.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q: None

#### Review Team General Observations

The EU has not yet sought nor submitted any specific proposed modifications to CDS documents and therefore there has been no practical application of these MPRs to the EU to date. However, the EU has noted (response to QAR Q34):

*“... the EU together with the Extended Commission in coordination with the Secretariat have to consider the adoption of specific derogations or simplified requirements for the CDS obligations applicable to atypical fishing fleets like the EU, as it is already the case of recreational fisheries that prohibit the sale of fish.”*

#### Review Team Conclusion:

The EU has not proposed any modifications to CDS forms to date and so this MPR did not need to be assessed.

### 3.2.8 CDS OBLIGATIONS C (Tagging) x. xi. and xii. MPR 1

#### MPR 1

1. Operating systems and processes established and implemented to ensure that CCSBT Catch Tagging Program requirements are met, including:
  - a. ensuring all SBT tags meet the minimum specifications in paragraph 3 of Appendix 2 of the [CDS Resolution](#);
  - b. recording the distribution of SBT tags to:
    - i. entities authorised to fish for, or farm, SBT, and
    - ii. where applicable, entities which received tags to cover exceptional circumstances outlined in “3.1 C xv” and “xvi”;
  - c. requiring a valid tag to be attached to each SBT brought on board a fishing vessel and killed (including SBT caught as incidental bycatch) or landed and killed from a farm (unless the special circumstances in “3.1C xv” apply);
  - d. requiring tags to be attached to each fish as soon as practicable after the time of kill;
  - e. requiring details for each fish to be recorded as soon as practicable after the time of kill including month, area, method of capture, as well as weight and length measurements carried out before the SBT is frozen.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):	Q: 21, 30, 31, 32
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#### Background Information

The CDS Resolution requires that for non-farmed SBT:

*“4.1 Members and Cooperating Non-Members shall require that an SBT tag be attached to each whole SBT at the time of kill except: .....*

*4.1.2 in exceptional circumstances, where a vessel on the CCSBT Record of Authorised Vessels does not have sufficient tags on board, the tag may be attached at landing;*

*4.1.3 in exceptional circumstances, where a vessel catches SBT as unexpected bycatch and has no, or insufficient, tags on board, the tag may be attached at landing.”*

#### Key Points from Documents Provided by the EU including Annual Reports

In the past the EU has provided information that small amounts of SBT bycatch have been caught and disposed but not tagged, for example:

*“The small amount of EU SBT catches is normally landed along with other species of tuna by-catch (Thunus alalunga, etc.) and sold fresh on local markets for consumption or sometimes donated to charity”<sup>48</sup>, and*

*“The small amount of EU SBT by-catches is either consumed by the vessel crew or given to local workers in the port of landing that assist with off-loading the vessel. By-catches of SBT taken in the WCPFC Convention Area are off-loaded in Papeete (Tahiti), and by-catches taken in the IOTC Convention Area are off-loaded in Durban (South Africa). EU SBT bycatches therefore never enter any commercial channels, for which reason the catch documentation is not filled in or the specimen of SBT are not tagged”<sup>49</sup>.*

<sup>48</sup> Section 8, p4 (top of page), [CCSBT-CC/1209/SBT Fisheries – EU](#)

<sup>49</sup> p12, section II(5) and p15, section III(1) of [CCSBT-CC/1310/SBT Fisheries – EU](#)

At the Thirteenth Meeting of the Compliance Committee (CC13)<sup>50</sup>, the EU referred to the following difficulties regarding the CDS tagging requirement:

*“The European Union advised that it had some concerns with the CDS due to it not catching SBT and having no SBT imports with some minor exceptions. Because of its rare dealings with SBT, it is difficult for its fishers to comply with the CDS (e.g. by carrying valid tags) and there is a potential for masters to misreport SBT to avoid the difficulties involved in reporting SBT. In this respect, the EU asked Members to consider the possibility of having a simplified set of CDS requirements for Members that have very low SBT catches.”*

In addition, the EU has stated that, *“The EU took a conscious policy decision not to allow EU vessels to target SBT, notably to minimize encounters with SBT. In fact, EU surface longliners entering in the SBT area, use different gear, fish in diverse depths and use diverse baits that the longliners fishing SBT. As fisheries managers, there is always a risk assessment to be made in terms of priorities, obligations and available resources. Taking into account the absence of reported SBT by-catches since 2013, the obligation to carry on-board tags in EU vessels is not a priority in view of the fact SBT catches are unlikely and unexpected and that there are no SBT by-catches reported since 2013.”* (response to QAR Q30), and

*“Given that i) since 2012 there were no recorded SBT by-catches and ii) the marginal probability of harvesting any SBT, which the EU has only a minor quota for by-catch, we have been relatively flexible on the obligation to carry permanently on-board SBT tags. It is probably disproportionate to oblige EU vessels that are forbidden to target SBT to implement this obligation.”* (response to QAR Q21) and,

*“it is not a priority to oblige EU vessels to carry on-board tags. We understand the obligations related tagging but we believe that there is no obligation to have a dedicated monitoring system in place, particularly when SBT by-catches are unexpected.”* (response to QAR Q32).

### Review Team Observations

- Since the CDS Resolution came into effect in 2010, the EU has reported small bycatches of SBT between 2010 to 2012 inclusive which were attributed against its quota. However, the EU has not ordered any tags from the CCSBT’s centralised tag manufacturer or advised it has its own tags, and has not submitted any tagging information for this reported SBT catch, nor reported any exceptional tagging circumstances, and
- The EU has reported disposing of small quantities of SBT at local ports.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O)
Weaknesses	W1-3(O), W3,4,6(CDS)
Risks (Threats)	R2-5(O); R5,6,8(CDS)

### Review Team Conclusion: Compliance not demonstrated

- The EU has over-arching laws that bind EU Member States to comply with measures adopted RFMO Commissions to which the EU is a Contracting Party.
- The EU appears to use its stated policy of not permitting its fishing vessels to target SBT as a justification for not needing to carry CCSBT tags, however a policy decision cannot guarantee that there will be no unexpected SBT bycatch.
- The EU has caught SBT in the past which hasn’t been tagged.

<sup>50</sup> Refer to paragraph 41 of the [CC13 Report](#)

- The EU's vessels do not currently carry CCSBT tags and do not appear to have any tagging processes in place to comply with the CCSBT's tagging requirements in the event that SBT is caught and retained as an unexpected bycatch (regulations prevent it from being discarded), nor has the EU applied for any specific exemptions to CCSBT tagging obligations.

### 3.2.9 CDS OBLIGATIONS C (Tagging) xiii. to xviii. MPRs 1 & 2

#### MPR 1 and 2

1. Operating systems and processes established and implemented to:
  - a. meet procedural and information standards set out in Appendix 2 of the [CDS Resolution](#);
  - b. identify any unauthorised use of SBT tags;
  - c. identify any use of duplicate tag numbers;
  - d. identify any whole SBT landed, transhipped, exported, imported or re-exported without a tag (except in the circumstance set out in obligations “3.1C xv and xvi”);
  - e. ensure that tags are retained on whole SBT to at least the first point of sale<sup>51</sup> for landings of domestic product;
  - f. ensure a risk management strategy (including random or risk-based sampling) is in place to minimise the opportunity of illegal SBT being marketed.
  
2. Operating systems and processes established and implemented to:
  - a. monitor compliance by operators with control measures in 1. a-f above;
  - b. impose sanctions on operators where non-compliance is detected;
  - c. report any cases of whole SBT being landed without tags (due to exceptional circumstances in “3.1C xv” and “xvi”) to the Executive Secretary, and minimise their occurrence in future.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):
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Q: 30, 31, 32, 33, 34
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#### Key Points from Documents Provided by the EU including Annual Reports

The EU advised that overarching legislation is in place to ensure RFMO rules are complied with (response to QAR Q 33). For CCSBT such rules would include complying with CDS tagging requirements. The EU’s (Q 33) response indicated that:

*“In line with Article 21 of the [SMEFF Regulation \(EU\) 2017/2403](#), a flag Member State may issue a fishing authorisation only if the rules laid down by the RFMO or the transposing Union law are complied with. If an operator does not comply with the rules of the RFMO, Member States are entitled not to grant or renew the authorisation. Moreover, if an operator does not comply with rules of an RFMO, this creates an infringement, which is liable to a sanction under the Title VIII of the Control Regulation (EC) No 2009/1224. This is in line with Article 7 of the SMEFF Regulation, which provides rules for the management of fishing authorisations ....”*

#### Review Team Observations

These two MPRs are primarily concerned with monitoring the correct use of CCSBT tags including imposing sanctions where non-compliance is detected.

The Review Team notes that no documents were provided by DG MARE to illustrate how checking of CCSBT tags occurs for SBT imports. In addition, no documents were provided to illustrate the processes in place to ensure that CCSBT tagging requirements are met in the event that the EU fleet takes SBT as a bycatch.

The Review Team also has concerns as to whether the punitive aspects of the SMEFF Regulation (referred to in response to QAR Q 33) can be applied by the EU if references CCSBT CDS

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<sup>51</sup>Tags should be retained on whole SBT as long as possible. In cases where the catching and processing are conducted by the same operator (or entity), the tags should be retained as long as the SBT remains whole. This is because, in this case, the first point of sale occurs later in a processed form.

requirements are not explicitly included within EU Member State fishing vessel authorisations, e.g. if SBT is by-caught and CCSBT tagging requirements aren't complied with.

Note that the EU also mentioned that (QAR Q 34):

*"... the Extended Commission in coordination with the Secretariat have to consider the adoption of specific derogations or simplified requirements for the CDS obligations applicable to atypical fishing fleets like the EU, as it is already the case of recreational fisheries that prohibit the sale of fish."*

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-4(O); S5(CDS)
Weaknesses	W1-3(O), W3,4,6(CDS)
Risks (Threats)	R2-5(O), R5-6,8(CDS)

**Review Team Conclusion: Compliance not Demonstrated**

- The EU has an over-arching legal framework which binds EU Member States to comply with measures adopted by RFMO Commissions to which the EU is a Contracting Party e.g. the 'SMEFF Regulation', however the Review Team is unsure if the 'SMEFF Regulation' applies in cases where RFMO requirements are not explicitly included within fishing vessel authorisations.
- The EU has not CCSBT-tagged any of the SBT it caught in the past.
- No DG MARE documents or Member State documents were provided to demonstrate that EU Member States are aware of and have operating systems and processes established and implemented to ensure CCSBT Catch Tagging requirements (including CDS Appendix 2) are met in the event SBT is by-caught or to check the tags of any imported SBT and ensure that these are retained to the first point of sale.
- The Review Team wasn't provided with any evidence that EU's vessels carry SBT tags in the event they are needed and the EU noted that carrying tags is not a "priority" for its vessels (QAR Q 30), however the EU does not have any exemption to the CCSBT's tagging obligations.
- No documents such as monitoring, auditing and/or quality assurance reports were provided to demonstrate that the EU is monitoring compliance with CCSBT tagging requirements and has specific systems and processes in place to report/ sanction cases in the event that SBT is landed without tags.

### 3.2.10 CDS OBLIGATIONS D (Validation) xix. to xxi. MPRs 1 & 2 & xxii. to xxv. MPRs 1 & 2

#### Obligations xix – xxi: MPRs 1 and 2

1. Operating systems and processes established and implemented to:
  - a. authorise validators to validate Farm Stocking, Catch Monitoring and Re-Export/Export after Landing of Domestic Product Forms;
  - b. demonstrate that all persons with authority to validate CDS documents:
    - i. are government officials or other individuals who have been duly delegated authority to validate
    - ii. are aware of their responsibilities, including inspection, monitoring and reporting requirements
    - iii. are aware of penalties applicable should the authority be mis-used
  - c. appropriate individuals certify each CDS form type by each signing and dating the required fields;
  - d. the same individual does not both certify and validate information on the same CDS form
  - e. inform the Executive Secretary of:
    - i. the details for all validators (including the information specified in obligation “3.1D xx”) and keep this information up to date
    - ii. any individuals removed from the list of validators no later than the end of the quarter in which the removal occurred;
  - f. ensure that no individual conducts validations
    - i. prior to the Executive Secretary being fully informed of his/her current validation details, or
    - ii. after that individual’s authority to validate has been removed.
2. Operating systems and processes established and implemented to monitor performance (compliance and effectiveness) of validators.

#### Obligations xxii-xxv: MPRs 1 and 2

1. Operating systems and processes to ensure:
  - a. CDS forms are only validated:
    - i. where all of the SBT listed on the form are tagged (except in cases where tags are no longer required due to processing having occurred)
    - ii. in the case of farmed SBT, for SBT harvested from farms on a date that the farm was authorised on the CCSBT record of Authorised Farms
    - iii. in the case of Wild Harvest SBT, for SBT taken by FVs on a date when that FV was authorised by the flag Member;
  - b. validated documentation accompanies all SBT consignments whether transhipped, landed as domestic product, exported, imported or re-exported;
  - c. no SBT is accepted (for landing of domestic product, export, import or re-export) without validated documentation;
  - d. validation does not occur where:
    - i. validator authorisation procedures were not correctly followed or
    - ii. any deficiency or discrepancy is found with the CDS form.
2. Operating systems and processes established and implemented for a Member to validate SBT product against CDS documents, including:
  - a. requirements to check accuracy of information by ensuring every CDS document is complete, valid and contains no obviously incorrect information by cross-checking data on the form being validated against:

- i. data on preceding CDS forms including the Catch Tagging Form
  - ii. relevant lists of authorised farms, vessels or carriers
  - iii. result of any physical inspection by the authority.
- b. notification of any inconsistencies or inaccuracies to the Member’s enforcement authorities.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):  
**CDS (D) Validation (xix – xxi)**  
**Validation (xxii-xxv)**

24<sup>52</sup>, 34, 35, 36  
 37, 38, 39

### Review Team General Observations

To date the EU has never issued any CCSBT CDS forms that validators would need to validate and no EU Member State that is known to operate longliners in the SBT distribution area or imports of SBT has submitted a list of named CCSBT authorised validators.

The EU did authorise three government validators from Denmark in November 2017 and therefore Denmark is currently the only EU Member State that can issue and validate CCSBT CDS documents such as CMFs and REEFs. However, the EU has not reported that any Danish-flagged vessels fished in the ICCAT, IOTC nor WCPFC Convention Areas and there are no Danish-flagged vessels included in the tuna RFMO Consolidated List of Authorised Vessels (CLAV). Denmark has also not been recorded as an importer (and so potential re-exporter) of SBT product, therefore, there appears to be little need for Denmark to issue any CCSBT CMFs (or CTFs) or have any authorised validators. In addition, the EU provided a list of Member State authorities that have competency with regard to EU Catch Certificates<sup>53</sup>.

Since the EU has to date neither issued nor validated any CCSBT CDS forms, there has been no need for these requirements to be implemented in practice yet, however appropriate processes still need to be in place in the event that SBT is taken as bycatch.

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-4(O), S3,5(CDS)
Weaknesses	W1-3(O), W2,5,7(CDS)
Risks (Threats)	R2-4(O), R7-8(CDS)

### Review Team Conclusion: **Compliance not Demonstrated**

- The EU advised that the principal of “subsidiarity” applies, *i.e.* that responsibility is devolved to Member States, including for CDS validation requirements
- The EU has only CCSBT-authorised 3 named Danish validators
- No DG MARE documents nor Member State documents were provided to demonstrate that EU Member States have operating systems and processes established and implemented to ensure CDS Validation requirements are met, in particular being aware that any imports of SBT on CCSBT CDS forms need to have been appropriately validated by the exporter before imports are accepted, e.g. by validator’s signature and seal.

<sup>52</sup> With respect to the certification requirements of Obligations xix-xxi, MPR 1c, 1d

<sup>53</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214(03)&from=EN)

- The EU signalled that special circumstances such as simplified requirements should be considered for it, however it has not put forward any revised CDS Resolution for Members' consideration.

### 3.2.11 CDS OBLIGATIONS E (Retention & Submission of Documents) xxvi.

#### MPR 1

##### MPRs – CDS (E) Retention and Submission of Documents

1. Documents and/or scanned electronic copies stored in a secure location for a minimum of three years under conditions that avoid damage to the legibility of the documents or the data files.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):

Q20

#### Review Team General Observations

In response to QAR Q 20, the EU notes that any Catch Certificates are centrally stored, however it is not known how long they are stored for:

*“DG MARE requests copies of any Catch Certificates containing SBF together with the CDS Catch Tagging template with the quarterly request for ‘data provision on domestic landings, exports, imports, re-exports, farm stocking and farm transfers of SBF’. That information is centrally stored.”*

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O)
Weaknesses	W1(O)
Risks (Threats)	R4(O)

#### Review Team Conclusion: **Compliance Demonstrated**

The Review Team was advised that the information is stored centrally.

### 3.2.12 CDS OBLIGATIONS E (Retention & Submission of Documents) xxvii. & xxviii. MPRs 1 & 2

#### MPRs – CDS (E) Retention and Submission of Documents

1. Copies of all completed CDS documents issued by catching Members or received by importing or receiving Members, sent to Executive Secretary in accordance with the following timeframes:
  - a. documents issued or received in Jan-Mar - due 30 June
  - b. documents issued or received in Apr-Jun - due 30 September
  - c. documents issued or received in Jul-Sep - due 31 December
  - d. documents issued or received Oct-Dec - due 31 March.
2. Catch Tagging Form information shall be provided to the Executive Secretary using the electronic Data Provision Form developed by the Secretariat and in accordance with the Data Provision Form's instructions.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):
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Q: 40, 23 (response)
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#### Key Points from Documents Provided by the EU including Annual Reports

In a summary document provided to the Review Team (APPENDIX D – section 5.1.2), the EU described a process for monitoring SBT trade flows:

*“DG MARE quarterly reports to the Secretariat information on exports, imports and re-exports of Southern Bluefin Tuna (this also includes catches, domestic landings, farm stocking and farm transfers that in practical terms do not apply to the EU fleet).*

*This information is based on a standard data request sent about 1 month before the reporting deadline to all EU Member States. The Catch Documentation Scheme forms are attached to this data request as a reminder of the need to report trade flows according to the Implementation of a CCSBT Catch Documentation Scheme. DG MARE requires Member States to also reply in case there is nothing to report (which has been the case in all quarters since 2018). DG MARE sends to the Secretariat the data provided by Members States.”*

In support of the above response the EU provided some examples of its quarterly requests to Members (note document 6 and 7, refer to the end of APPENDIX E).

In its 2015 National report to the CC<sup>54</sup> the EU noted:

*“The European Union takes the lack of submission of two CMFs copies upon importation to the CCSBT very seriously. After requesting additional information from the CCSBT Secretariat regarding the period and the concerned EU Member States, we have contacted the relevant national authorities on this matter on three occasions to follow-up the issue. The root cause for failing to comply with this requirement was seemingly the lack of familiarity by private operators and national administrations with this requirement of the CCSBT CDS, which is quite specific to CCSBT. After raising the importance of this procedure on a number of occasions we expect that there will be no further instances of non-compliance in the future. We are of course ready to address the matter again should the question arise in the future.”*

In its response to QAR Q 23, the EU noted:

*“As an example, in the last few years, DG MARE was informed by the secretariat and by another Member about two minor imports of SBT in the EU market that were not detected. Following exchanges with the secretariat*

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<sup>54</sup> Refer to p12, [CCSBT-CC/1509/SBT Fisheries - EU \(Rev.1\)](#)

*and with relevant authorities in Member States, CDS certificates were retrieved and completed. CDS certificates are however, compatible and contain the main requirements that are also part of the EU IUU CDS certificates. We will continue to work with the Secretariat and the Extended Commission to find practical arrangements to solve any possible difficulties.”*

However, in an email to the Secretariat in June 2020 DG MARE noted that regarding the German case study immediately below:

*“The technical situation is a bit unfortunate for us, as we are depending on the Member State authorities and if not all of them carry out all necessary checks – despite our regular reminders – there may be a gap in the data like apparently now.”*

### Case Study: SBT Import into Germany in 2019

Almost 0.5t of SBT on one CDS form was exported from Australia to Germany during 2019. That CDS import form was not provided to DG MARE by Germany in DG MARE’s routine quarterly requests to Member States and was therefore also not submitted to the CCSBT Secretariat.

Following queries DG MARE advised the Secretariat that:

*“On our request, Germany informed us today that they checked again their statistics and data bases for 2019 and – after this verification – Germany confirmed again that there have been no imports of SBT to Germany in 2019 and therefore no CMF form can be provided” (26/06/2020).*

However, after more information was provided to DG MARE by the Secretariat, DG MARE located the CDS form and submitted it to the CCSBT Secretariat (initially without being import certified):

*“After further investigation, Germany confirmed yesterday that the import of SBT took place in the second quarter 2019 as reported by Australia and provided us with a copy of the CMF and the customs protocol (both attached). Germany explained the fact that the import had not been properly recorded and reported as follows: After investigations with the concerned companies, it turned out that the goods were not registered with the BLE (1), because they were declared as aquaculture at customs and in the GGED (2) and therefore do not have to be registered with the BLE. We have informed the customs that SBT is not purely aquaculture, but only the hatchery of wild caught fish and the goods must therefore in future always be registered with the BLE, as it is already in use regarding BFT. In summary, it can be said that the trade took place exactly as Australia mentioned.*

*(1) Federal office for Agriculture and Food*

*(2) Common Health Entry Document”*

Therefore, in this example Germany seemed unaware of its CCSBT reporting obligations up until 2020, at least for SBT farmed after initial wild capture.

### Review Team General Observations

Since the beginning of the CDS, it is expected the EU should have submitted 176 copies of import CDS SBT import documents to the Secretariat. To date, of the 7 imports of SBT sent to the EU between 2015 to 2019 inclusive, 5 out of 7 copies of import CDS forms have been submitted to the CCSBT Secretariat (Table 7). None of these were independently identified and submitted to the Secretariat by DG MARE nor submitted within the required timeframe. The forms were only located and submitted after the Secretariat provided intended importer information to the DG MARE. There is a risk that this same lack of awareness about SBT import requirements applies in other EU Member States.

*Table 7: SBT Exports to the EU Since 2010*

Year	Total Net Weight of SBT Exported to the EU (kg)	No. of CDS Export Documents sent to the EU	Breakdown of Importing EU Member States	No. of Import CDS Documents Submitted to the Secretariat by the EU
2010	11,253.47	110	France (22), Germany (84), Spain (1), UK (3)	0
2011	1,832.50	32	Germany (26), Spain (6)	0
2012	1,845.78	22	France (1), Germany (21)	0
2013	1,191.20	3	France (1), Germany (2)	0
2014	479.00	2	Italy (2)	0
2015	405.00	1	Italy (1)	1
2016	123.55	3	Croatia (1), UK (2)	2
2017	10.00	2	France (2)	1
2019	447.10	1	Germany (1)	1
<b>Grand Total</b>	<b>17,587.60</b>	<b>176</b>		<b>5</b>

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O), S4(CDS)
Weaknesses	W1-2(O), W8(CDS)
Risks (Threats)	R2-4(O), R8-9(CDS)

**Review Team Conclusion: Compliance not Demonstrated**

- In 2015 the EU commented that Member States may not have been aware of their responsibilities regarding CDS submissions; an example of this lack of awareness occurred for an SBT import into Germany during 2019.
- The Review Team concludes that the EU's quarterly request for CDS forms process does not appear to be operating effectively. There has to date been no occasion where EU Member States have independently detected and provided import copies of CDS documents to DG MARE (and so to the CCSBT Secretariat) within the required timeframe.

### 3.2.13 CDS OBLIGATIONS F (Verification of CDS Documentation) xxix. to xxxi. MPRs 1 & 2

#### MPRs – CDS (F) Verification of CDS Documentation

1. Operating systems and processes established and implemented to:
  - a. assign unambiguous responsibility to individuals or institutions for implementing verification procedures; and
  - b. Ensure no verification procedure<sup>55</sup> is carried out for a CDS document by an individual who has validated or certified the same CDS document.
2. Operating systems and processes established and implemented for verification, including:
  - a. selecting and inspecting, where appropriate, a targeted sample of vessels and export, import and market establishments based on risk. The intent of these inspections should be to provide confidence that the provisions of the CDS are being complied with;
  - b. reviewing and analysing information from CDS documents at least once every 6 months, including:
    - i. checking the completeness of data on CDS forms and cross-checking the consistency of the data on CDS forms received with other sources of information
    - ii. cross-checking data from the Executive Secretary’s CDS six-monthly report
    - iii. analysing any discrepancies;
  - c. investigating any irregularities suspected or detected;
  - d. taking action to resolve any irregularities;
  - e. notifying the Executive Secretary and relevant Members/ OSECs, of any consignments of SBT whose CDS documentation is considered doubtful, or incomplete or unvalidated;
  - f. notifying the Executive Secretary of any investigation into serious irregularities, in order to present these in an annual summary report to the Compliance Committee. Notifications should include reporting:
    - i. the commencement of an investigation if doing so will not impede that investigation
    - ii. progress, within 6 months of starting the investigation if doing so will not impede that investigation and
    - iii. the final outcome within 3 months of completing the investigation.
3. Ensure that no SBT is accepted (for landing of domestic product, export, import or re-export) without validated documentation attached.

APPENDIX E- Relevant QAR Questionnaire Question(s) & Response(s):	Q: 23 & 37 (responses), 41, 42
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#### Background Information

Verification in terms of the CDS Resolution is described as (paragraph 7.1):

*“Each Member and Cooperating Non-Member shall ensure that its competent authorities, or other authorised individual or institution, take steps to identify each consignment of SBT landed as domestic product in, imported into or exported or re-exported from its territory and examine the validated CCSBT CDS Documents for each consignment of SBT. These competent authorities, or authorised individuals or institutions, may also examine the content of the consignment to verify the information contained in the CCSBT CDS Document and in related documents and, where necessary, shall carry out verifications with the operators concerned.”*

<sup>55</sup>Noting that verification is defined on page 3 of this document together with a list of processes that may form part of verification.

## Key Points from Documents Provided by the EU including Annual Reports

In response to the QAR questionnaire, the EU noted that (QAR Q23):

*“The competence to apply the Regulations in force with regard to SBT imports/re-exports and to perform and document the necessary checks is a responsibility of national authorities (in general customs). There are no documentation that can be provided concerning checks made by those authorities.”*

In addition (QAR Q41):

*“In DG MARE there is no dedicated mechanism to verify the SBT recorded on CDS import documents. We rely on the information provided by Member States that according to the subsidiarity principle have a competence on this verification. Furthermore, EU IUU Regulation requests Member States to check the EU catch certificate or its accepted equivalent (e.g. CCSBT CD) prior to accepting the import (Art. 16 and 17) and consignments that do not comply with the requirements laid down in the IUU Regulation are denied import in the EU, pursuant to Art. 18 of the IUU Reg.*

The Review Team notes that Article 17(1) of the overarching EU IUU Regulation EC No, 1005/2008 (APPENDIX L) does not appear to make verification mandatory since it specifies that:

*“The competent authorities of the Member States may carry out all of the verifications they deem necessary to ensure that the provisions of this Regulation are correctly applied.”*

However, in its response to the draft QAR the EU commented that this was probably a language mistake, and in practical terms this is a requirement.

With regard to having processes in place to potentially notify the CCSBT Executive Secretary where CCSBT CDS documentation is received which is considered doubtful, incomplete or unvalidated the EU appeared to have an over-arching process in place (see response to QAR Q37):

*“Member States that reject consignments lacking proper or comprehensive information must pass this information to DG MARE and to the Flag State.”*

SWOT Analysis	Corresponding Reference Number in SWOT Analysis (section 5)
Strengths	S1-2(O)
Weaknesses	W1-3(O); W5(CDS)
Risks (Threats)	R2-4(O); R8(CDS)

## Review Team Observations

Insufficient information was provided to determine whether Member States have appropriate verification processes in place for any SBT imports received.

### **Review Team Conclusion: Compliance not Demonstrated**

- The EU has an over-arching legal framework that binds EU Member States to comply with measures adopted RFMO Commissions to which the EU is a Contracting Party, although verification does not seem to be mandatory.
- No DG MARE documents nor Member State documents were provided to the Review Team to demonstrate that EU Member States have operating systems and processes established and implemented to ensure appropriate verification of CDS requirements.

**3.2.14 CDS OBLIGATIONS F (Verification of CDS documentation) xxxii. to xxxiv.**

**(no relevant MPRs)**

There are no MPRs associated with these obligations and therefore the Review Team has not commented on this item.

## 4. MEMBER PROCESS FLOW MAPS

In previous QARs the process flow maps have been developed by the QAR contractors in close consultation with the relevant Member.

However, this year, given the limited resources available and the necessity to streamline the QAR process, including eliminating any potential ambiguities as early in the process as possible, flow diagrams were provided to the Review Team by the EU.

The EU provided two process flow diagrams which are replicated below.

### **Note:**

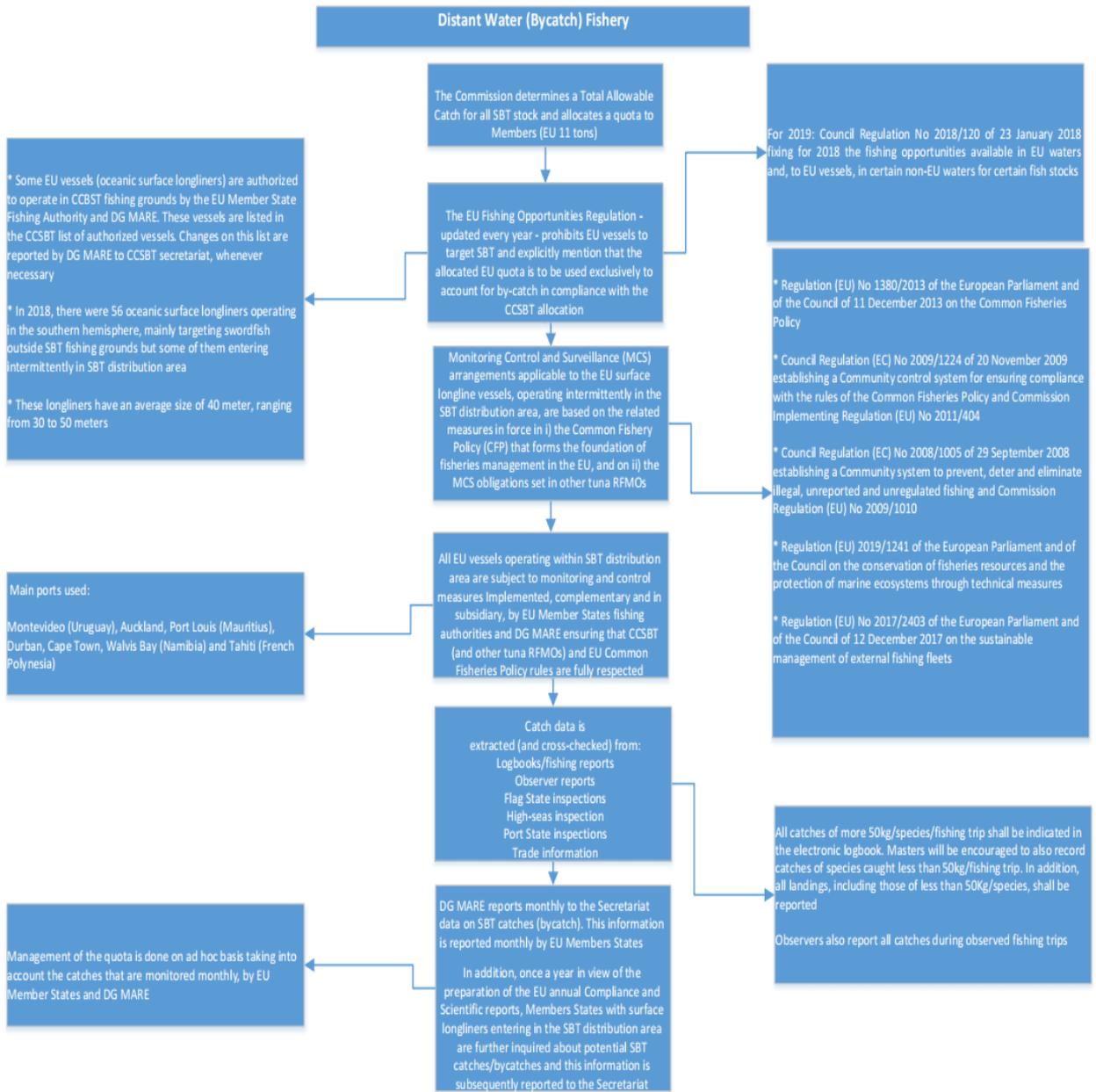
The Review Team asked the following question about these flow charts (QAR Q 5):

*“The bycatch fishery flow chart provided to the Secretariat seems to indicate that the lack of an obligation to record 50kg or less live-weight equivalent in the logbook applies per trip – is this correct or does it apply for some other period e.g. per set or per day?”*

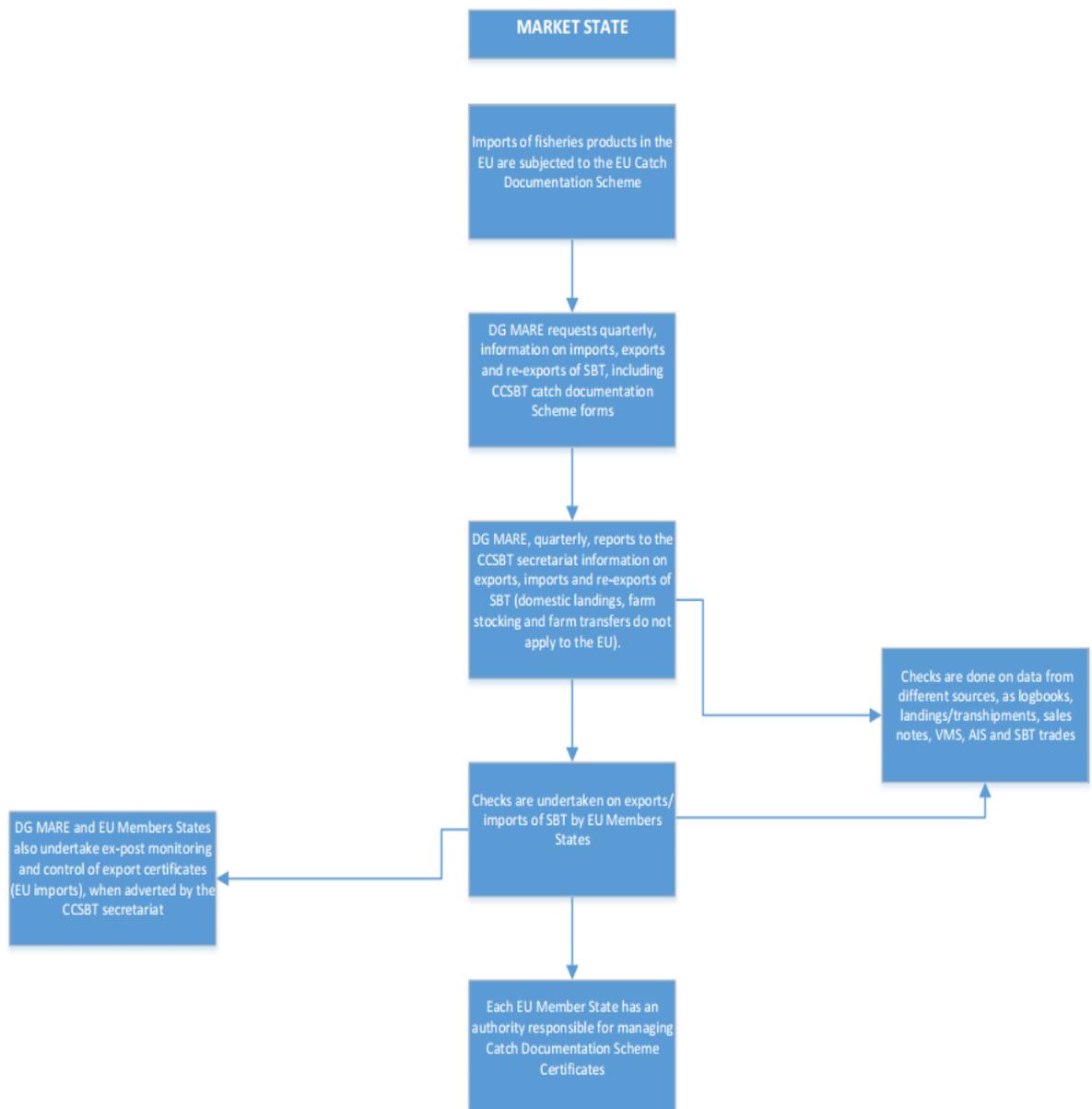
The EU’s response was that:

*“This indication is general and is not applicable in the case of the SBT”.*

## 4.1 Distant Water Bycatch Fishery



## 4.2 EU as the Market State



## 5. MANAGEMENT SYSTEM EFFECTIVENESS

### SWOT Analysis

An analysis of Strengths (5.1), Weaknesses (5.2), Opportunities (recommendations – 5.4) and Threats (risks – 5.3) *i.e.* SWOT analysis, of the EU’s systems and processes for the relevant CCSBT obligations and associated Minimum Performance Requirements (MPRs) examined by this QAR is presented below.

### 5.1 Strengths

Table 8: Strengths – Over-Arching

Ref #	Strengths
S1(O)	<p>According to EU law, The Common Fisheries Policy and the EU Regulations apply directly and are considered as part of the domestic laws of EU Member States (QAR Q 33 response). The principle of “subsidiarity” applies – meaning that responsibility is devolved to Member States described by the EU as:</p> <p><i>“According to the principle of subsidiarity applied in the EU - decisions are kept with Member States, if Members states have the competence and the intervention of the European Union is not necessary”</i> (QAR Q 21, Q 35 responses), and, <i>“The correct application of the law in force is the competence of the national authorities and to a large extent the EU has to rely on this”</i> (QAR Q 24 response).</p>
S2(O)	<p>CCSBT Resolutions will be transposed into EU law and the EU is bound to ensure that CCSBT measures are implemented by EU vessels (APPENDIX D, section 4):</p> <p><i>“CCSBT Resolutions will be transposed into EU legislation and that pursuant to Article 216(2) of the Treaty of the Functioning of the EU, the EU as a contracting party to the CCSBT, is bound to ensure that the measures adopted by the Commission are effectively implemented by EU vessels”.</i></p> <p>Parts of the CCSBT measures that the Review Team found embedded in the EU law are:</p> <ol style="list-style-type: none"> <li>1) The EU Fishing Opportunities Regulation prohibits targeting SBT and explicitly mentions that the allocated EU quota is to be used exclusively to account for by-catch in compliance with the CCSBT allocation – updated annually (APPENDIX D - section 1; APPENDIX F)</li> <li>2) Article 7(2) of the IUU Resolution and its associated Annex V (<i>COMMISSION REGULATION (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing</i>) – refer to APPENDIX M: <ul style="list-style-type: none"> <li><i>“2. The catch documentation schemes adopted by regional fisheries management organisations listed in Annex V, Part II, of this Regulation, shall be recognised, for the purposes of Article 13(1) of Regulation (EC) No 1005/2008, as complying with the requirements of that Regulation subject to additional conditions.</i></li> <li><u><i>Annex V – Part 2:</i></u></li> <li><i>Part II Catch documentation schemes recognised as complying with the requirements of Regulation (EC) No 1005/2008, subject to additional conditions:</i> <ul style="list-style-type: none"> <li><i>– CCSBT (Commission for the Conservation of Southern Bluefin Tuna) – Resolution on the implementation of a CCSBT Catch Documentation scheme (adopted at the Fifteenth Annual Meeting – 14-17 October 2008). In addition to the catch documents and any related documents validated in conformity with the CCSBT Catch Documentation scheme, the importer shall submit to the authorities of the Member States of importation the information on transport details, specified in the Appendix on transport details included in Annex II of Regulation (EC) No 1005/2008.”</i></li> </ul> </li> </ul> </li> </ol>

S3(O)	The EU advised it, “... continually performs regular audits and inspections of the European Member States control systems in place, to ensure that they do comply with all the EU obligations, including those contracted at international level, and are effective. Deficiencies are identified through audits and addressed through action plans”, and that, “During 2018 and 2019 an audit series was conducted on the EU’s ‘external fleet’”(APPENDIX D, section 2.1 – audits). <sup>56</sup>
S4(O)	EU Member States must self-report every 2 years on their application of the EU’s IUU Regulation: “... pursuant to Regulation (EC) No 2008/1005, article 55.1 (IUU Regulation), Member States must report every two years on their application of the IUU Regulation. The analysis of these biennial reports is used to detect potential weaknesses and feed dedicated trainings by the European Fisheries Control Agency, as well as specific meetings with the Member States. Where relevant the European Commission can also perform visits or audits to the Member States” (QAR Q 24 response).

Table 9: Strengths - Compliance with National Allocations

Ref #	Obligation	MPR	Strength
S1(NA)	i	1	The EU’s Regulation on fishing opportunities is updated and issued in January each year and reflects the EU’s annual SBT allocation – for the 2020 year refer to COUNCIL REGULATION (EU) 2020/123 (APPENDIX F).
S2(NA)	i	2a	<a href="#">Commission Regulation (EU) No 2011/404</a> specifies that when at sea the master of an EU fishing vessel shall transmit the electronic fishing logbook information to the competent authorities of the flag Member State at least once a day.
S3(NA)	i	2b, c	<a href="#">COUNCIL REGULATION (EC) No 2009/1224</a> (the ‘Control Regulation’) establishes what information needs to be recorded in vessel logbooks (Article 14(1)), noting some updates have occurred since it came into force.
S4(NA)	i	2b, c	The Common Fisheries Policy was amended to include a phased-in landing obligation which does not allow the discarding of large pelagics such as bluefin tuna from 1 January 2015 at the latest (APPENDIX G)
S5(NA)	i	3	The EU has submitted either CC/EC and/or ESC National Reports annually including information on its annual SBT catches.

Table 10: Strengths – Compliance with the CDS (Resolution)

Ref #	Obligation	MPR	Strength
S1(CDS)	Vi	1	No transshipments are permitted in the High Seas unless authorised by the appropriate RFMO. The EU does not participate in any of the at-sea transshipment programmes or schemes existing in tuna RFMOs.
S2(CDS)	Vi	1	Spanish National legislation prohibits all at-sea transshipment operations. In its response to the draft QAR, the EU advised that: “ <i>In practical terms this also applies to Portugal, at-sea transshipment is an infraction according to national law.</i> ”
S3(CDS)	D xix-xxi D xxii-xxv	1, 2 1, 2	All imports of fishery products into the EU must occur under the EU Catch Certification Scheme in order to be accepted – see Annex V – Part 2 of <i>COMMISSION REGULATION (EC) No 1010/2009 of 22 October 2009</i> (APPENDIX M).
S4(CDS)	E xxvi-xxviii	1, 2	A regular quarterly standard data request is sent to EU Member States to submit any CCSBT catch information/CDS forms to DG MARE so that the information can in turn be submitted to the CCSBT Secretariat.
S5(CDS)	Fxxix-xxxi	1, 2	Over-arching legislation includes a requirement that any rejected domestic/import consignments must be reported to DG MARE and the Flag State concerned.

<sup>56</sup> In its response to the draft QAR the EU noted that, “*The last audits on the external fleets did not show any issues related to SBT, although it should be noted that this was not the main objective of the audit.*”

## 5.2 Weaknesses

Table 11: Weaknesses - Over-Arching

Ref #	Weakness
W1(O)	The EU noted there are no specific departments dealing with SBT in the EU or its Member States, but instead the EU has dedicated human and administrative resources to other tuna RFMOs where SBT could potentially be caught as by-catch (APPENDIX D – Background, p1).
W2(O)	The EU's compliance with CCSBT obligations depends upon each Member State being fully aware of and implementing the correct CCSBT processes. In many cases the EU (DG MARE) did not provide any/sufficient documentation to demonstrate that relevant systems and processes have been established, in particular for Member States that are known to fish in the SBT distribution area (Portugal, Spain and the UK), or for Member States that are known to have imported SBT products in the past (Croatia, France, Germany, Italy, Spain and the UK).
W3(O)	The EU's devolved governance arrangements rely on adequate monitoring and auditing by the EU of its Member States. While the EU advised that regular audits of Member States are conducted and that self-reporting by EU Member States with respect to the EU's IUU Regulation is required every 2 years, these audits do not specifically cover CCSBT obligations as reflected in the EU's response to the draft QAR which clarified that, <i>"It is true that audit points do not specifically cover CCSBT obligations but do cover the implementation of the EU CDS, which also includes possible imports of SBT covered by the CDS. However we can consider ways to better cover CCSBT obligations in the future ...."</i>
W4(O)	No Spanish longliners were CCSBT-authorized during 2018, even though some Spanish longliners did fish within the SBT distribution area in 2018.

Table 12: Weaknesses - Compliance with National Allocations

Ref #	Obligation	MPR	Weakness
W1(NA)	i	2 b,c; 4a	Low levels of target species scientific observer coverage on longliners have often occurred in areas South of 30°S where SBT are usually found. Therefore, there is little observer data available to cross-check/ verify longliner logbooks in these lower latitudes.
W2(NA)	i	2 b,c	Currently no EU Member State is port sampling its flagged longliners that fished within SBT distribution areas so this potential supplementary data source is not available to verify EU logbook information. (NB: There is no CCSBT obligation for port sampling to be conducted.)
W3(NA)	i	2 b,c	Few EU Member Flag State inspections of their flagged longliners or port State inspections of EU Member-flagged longliners appear to occur following fishing activity in SBT distribution areas at least within the IOTC Area, thereby limiting the opportunities to independently verify catches.
W4(NA)	i	3	There are anomalies in the SBT mortality data submitted from different sources, especially for 2010 and 2011, as well as potentially with respect to the geographic areas in which the SBT are reported as having been caught.

Table 13: Weaknesses - Compliance with the CDS System (Resolution)

Ref #	Obligation	MPR	Weakness
W1(CDS)	A.i -v	1b, 3	There is no evidence that EU Member States have in place systems and processes to issue uniquely numbered CCSBT CDS forms in the event that SBT is bycaught (or imports are re-exported).
W2(CDS)	A.i -v	1c,e	DG MARE/ EU Member States do not seem adequately aware of CCSBT CDS certification processes, <i>e.g.</i> two of the five import documents submitted by DG MARE were not completed/certified by the importer.
W3(CDS)	C.x, xi, xii	1	The EU's ability to comply with CCSBT's tagging requirements appears to be dependent upon the assumption that SBT will not be taken and so will not need to be retained <sup>57</sup> as bycatch by EU-flagged vessels.
W4(CDS)	C.xiii - xviii	1	There is no evidence that the EU has tags available that meet CCSBT's requirements in the event that SBT is taken as bycatch; there is also no information available that a risk management strategy is in place to minimise the risk of illegal SBT being marketed <i>e.g.</i> SBT without tags.
W5(CDS)	C.xiii - xviii	1	DG MARE as the EU's administrative body does not appear to have a dedicated mechanism to verify any SBT recorded on CDS import documents. There is also no documentation available regarding the checks that EU Member States carry out on (CCSBT) catch certificates accompanying imports (refer to QAR Q 23), therefore it can't be determined whether CCSBT CDS forms and tags are adequately checked by EU importers.
W6(CDS)	C.xiii - xviii	2	With respect to tagging, there is a gap between the EU's over-arching legislation that requires operators to comply with the rules of RFMOs versus the EU's response to tagging questions where the EU noted that, " <i>Taking into account the absence of reported SBT by-catches since 2013, the obligation to carry on-board tags in EU vessels is not a priority in view of the fact SBT catches are unlikely and unexpected and that there are no SBT by-catches reported since 2013.</i> "(QAR Q 30).
W7(CDS)	Dxix - xxi Dxxii - xxv	1, 2 1, 2	There are no documented authorised EU validators in EU Member States which have authorised longliners to fish in SBT distribution areas in recent years ( <i>e.g.</i> no EU-authorized validators for at least Portugal, Spain and the UK).
W8(CDS)	E. xvii, xviii	1, 2	DG MARE/ EU Member States have to date not demonstrated adequate awareness of CCSBT CDS submission processes, <i>e.g.</i> 176 CDS documents which should have been submitted to the CCSBT since 2010 have not been submitted.

<sup>57</sup> EU Landing Obligation - APPENDIX G

## 5.3 Threats (Risks)

Table 14: Threats (Risks) - Over-arching

Ref #	Risk (Threat)
R1(O)	There is a risk that not all sources of SBT mortality are detected by the systems and processes that the EU currently has in place, <i>e.g.</i> due to limited availability of independent data sources to verify logbooks (specifically for the SBT distribution area).
R2(O)	Information on CCSBT obligations and revisions to those obligations (including to the CDS) may not be disseminated/ or disseminated in insufficient detail to all potentially involved EU Member States/ relevant departments and personnel in those Member States.
R3(O)	Due to the large volume of inter-related EU fisheries laws, Member States may not easily be able to find and determine what are the practical requirements of complying with the CCSBT's obligations ( <i>e.g.</i> the CDS).
R4(O)	The rarity of SBT bycatch and import events may result in lack of awareness and preparedness regarding CCSBT requirements if/when those events do occur.
R5(O)	The rarity of SBT bycatch and import events could result in an increased potential to misreport due to difficulties in complying with CCSBT obligations which was highlighted by the EU in one of its responses <sup>58</sup> : <i>e.g.</i> "Because of its rare dealings with SBT, it is difficult for its fishers to comply with the CDS ( <i>e.g.</i> by carrying valid tags) and there is a potential for masters to misreport SBT to avoid the difficulties involved in reporting SBT" (QAR Q 31)

Table 15: Threats (Risks) - Compliance with National Allocations

Ref #	Obligation	MPR	Risks (Threats)
R1(NA)	i	2 a,b,c; 3	Due to no (UK until Jan 2017) or low target species observer coverage levels of target fisheries in some EU longline fleets within the IOTC Area of Competence (Spain – especially for latitudes south of 30°S from 2015 onwards), there is a heightened risk in these fleets that SBT could be caught and retained and mis-identified, and/or discarded and not identified.
R2(NA)	i	2 a,b,c; 3	Small catches of SBT could be continuing to be given to local workers or eaten by crew, donated to charity or sold fresh on local markets without being recorded in the CDS or incorporated into SBT 'Attributable Catch' estimates.
R3(NA)	i vi 2a,b	2b; 4a	A lack of regular and/or targeted port sampling/inspection regimes for EU longliners (in particular the Spanish fleet) that have fished in the IOTC Area of Competence in the SBT distribution area (and potentially for the EU's fleet in the ICCAT and WCPFC Convention Areas) and then docked in non-EU ports to unload means there is a low probability that additional data are available to verify and cross-check against logbook records, etc and the risk of undetected/ misreported SBT catch entering the supply chain is increased.

<sup>58</sup> Refer to paragraph 41 of the [CC13 Report](#)

Table 16: Threats (Risks) - Compliance with the CDS (Resolution)

Ref #	Obligation	MPR	Risks (Threats)
R1(CDS)	i-v	1a,b	Few references to specific CCSBT requirements appear to be included within the fishing vessel permits of some EU Member-flagged longliners fishing in SBT distribution areas.
R2(CDS)	i-v	1a,b	No Spanish vessels were CCSBT-authorized during 2018 and Portuguese/Spanish longliners were only CCSBT-authorized for 2020 retrospectively (in mid-September 2020). Non-CCSBT-authorized vessels are not permitted to retain SBT but also cannot discard SBT as it is a quota species. This situation may create an incentive for non-CCSBT-authorized EU Member flagged vessels to discard SBT illegally.
R3(CDS)	i-v	1b, 3	SBT landed directly by EU vessels could be misidentified by catchers/ importers and recorded as other tuna species for which CCSBT CDS documents would not be required.
R4(CDS)	vi	1	SBT could be transhipped in port or at sea to non-CCSBT authorised Carrier Vessels.
R5(CDS)	C.xiii - xviii	1	Tags of the required CCSBT standard are not available for EU vessel crews to tag any SBT that may be taken as bycatch either at the time of kill or upon landing (exceptional circumstance).
R6(CDS)	C.xiii - xviii	2	Compliance with respect to CCSBT tagging requirements may not be being adequately monitored or sanctioned by DG MARE/ EU Member States.
R7(CDS)	Dxix - xxi Dxxii - xxv	1, 2 1, 2	There are currently no nominated CCSBT-authorized Spanish, Portuguese or UK validators to validate any CDS forms that would need to be completed should any unexpected SBT bycatch be taken by these key fleets. Only Danish validators have been CCSBT-authorized.
R8(CDS)	Exxvi Exxvii- xxviii	1 1, 2	EU Member States and their stakeholders may not be fully aware of CCSBT requirements for completing, validating, certifying and submitting CDS forms including tagging data.
R9(CDS)	Exxvi Exxvii- xxviii	1 1, 2	EU Member States may not forward CCSBT CDS import documents to DG MARE (for submission to CCSBT) due to issues with how import shipments are received and classified, <i>e.g.</i> the German import which was declared as aquaculture and so not recorded as SBT with the German Federal office for Agriculture and Food.

## 5.4 Opportunities (Recommendations) for Improvement

Based on the Strengths, Weaknesses and Threats part of the (SWOT) analysis and review of the effectiveness of management systems against the CCSBT Minimum Performance Requirements, the Review Team has recorded some suggested recommendations (Opportunities) for improvement of the systems and processes specific to the MPRs investigated under this QAR.

Table 17: Opportunities (Recommendations) - Overarching

Ref #	Recommendations
1	The EU consider submitting a proposal to the CCSBT's Extended Commission to review pertinent CCSBT obligations (notably some CDS obligations) and their associated MPRs to take into account the nature and extent and the management risks associated with the EU's limited participation in the SBT fishery,
2	That EU Member State CCSBT vessel authorisations are issued and advised to CCSBT promptly before the start of each new calendar year (and not retrospectively) to reduce the risk that EU longliners might unexpectedly bycatch and be required to retain SBT while not yet CCSBT-authorized (SBT cannot be discarded due to the EU's landing obligation - APPENDIX G).

Table 18: Opportunities (Recommendations) - Compliance with National Allocations

Ref #	Recommendations
1	That the EU include specific CCSBT-related audit points in future DG MARE audits of Portugal and Spain <sup>59</sup> to ensure that details about CCSBT measures <sup>60</sup> are referred to in relevant Member State documents, <i>e.g.</i> in fishing permits issued for CCSBT-authorized longliners (if appropriate).
2	That when fishing within ICCAT, IOTC, and WCPFC Areas of Competence, the EU ensures that each relevant Member State collects sufficient data to quantify the level of longline scientific observer coverage <sup>61</sup> that occurs specifically while fishing inside the SBT distribution area (separate to the level occurring outside the SBT distribution area). It would then be clear how much scientific observer data is available to provide independent verification of logbook data (especially for bycatch) for the portion of trips spent fishing within the SBT distribution area.
3	That the EU annually record and present the number of Flag State port sampling events conducted on Portuguese and Spanish longliners that have fish on board taken from within the SBT distribution area <sup>62</sup> . This will allow the EU to quantify how much port sampling data is available to verify logbook data from the SBT distribution area in future years. <sup>63</sup>
4	Record the number of annual Port State and at-sea inspections of EU longliners that occurred while those vessels had fish on board that was caught in SBT distribution areas so that the EU can accurately quantify its statements about how much inspection data is available to verify logbook data from the SBT distribution area.
5	That the EU undertakes an analysis of the outcomes of recommendations 2, 3 and 4 above to determine if there is sufficient scientific observer coverage, as well as port sampling and Port State/ at-sea inspection events occurring (and associated data records available) to provide adequate independent verification of the SBT/ lack of SBT reported in EU longline logbooks for the period of time spent fishing within the SBT distribution area.
6	While it's not a CCSBT requirement, the EU could give consideration to implementing 100% e-monitoring coverage with scientifically supported audit/review rates by a human analyst for longliners fishing in the SBT distribution area to ensure a high level of verification of catch and effort data reported in logbooks.

<sup>59</sup> As well as any other EU Flag that may CCSBT-authorise longliners

<sup>60</sup> In addition to including the "SBF" code in the event SBT is bycaught

<sup>61</sup> For target species (SBT cannot be a target species)

<sup>62</sup> Recorded separately for the ICCAT, IOTC and WCPFC areas

<sup>63</sup> The Review Team understands that no Flag State port sampling is currently occurring

Table 19: Opportunities (Recommendations) - Compliance with CDS (Resolution)

Ref #	Recommendations
1	All EU-flagged longliners fishing in SBT distribution areas are CCSBT-authorized with Flag State authorisations which include appropriate references to specific CCSBT measures so that the vessels are aware of CCSBT requirements in the event that SBT is taken as bycatch.
2	That the EU ensures that Member States that have longliners fishing in SBT distribution areas have the relevant systems and processes to issue, complete and submit uniquely numbered CCSBT CDS forms should bycatch of SBT occur.
3	CCSBT tags are made available for tagging any unexpected bycatch of SBT either by keeping the tags on board some EU Member-flagged authorised longliners that regularly fish in SBT distribution areas and/or storing them at regular landing ports of EU Member-flagged longliners that fish in SBT distribution areas (so that any SBT bycatch can at least be tagged at landing <i>i.e.</i> tagged as an exceptional circumstance).
4	That the EU authorises some Portuguese and Spanish CDS validators so that these validators are available and aware of their responsibilities in the event that SBT bycatch is taken by Portuguese/ Spanish longliners and CDS forms need to be completed and validated.
5	In 2019 DG MARE found that Germany had not reported an import of SBT from an Australian farm because the shipment had been declared as aquaculture and not recorded with the German Federal Office for Agriculture and Food. It is recommended that the EU check to determine whether this same issue could occur for other EU Member States since it may prevent farmed SBT imports from being reported to DG MARE.

## 6. CONCLUSION

Based on the information provided by the EU, the Review Team concludes that:

- The EU has not satisfactorily demonstrated that it is fully compliant with its CCSBT obligations and associated MPRs in respect of:
  - Compliance with its National Allocations, and
  - CCSBT's Catch Documentation System.

The Review Team found that the EU has a broad, over-arching legal framework that binds EU Member States to comply with a comprehensive set of EU measures as well as measures adopted by Regional Fisheries Management Organisations (RFMOs) to which the EU is a Contracting Party.

The Review Team acknowledges the keystone principle of subsidiarity of the EU system, but also notes that this largely devolved legal framework does not absolve the EU, as the Contracting Party, from being accountable to other CCSBT Members for delivering on its relevant CCSBT obligations.

What was not particularly clear to the Review Team was the how the European Commission (DG MARE) ensures that EU Member States are aware of their specific CCSBT obligations and further that those Member States have the relevant specific national laws, systems, and processes in place to effectively implement those CCSBT obligations in respect of their nationals and flagged vessels.

While DG MARE advised that it does undertake regular audits and inspections of EU Member States' control systems to ensure that they comply with all EU obligations including those contracted at the international level, no auditing/inspection programme specifications or reports were provided to the Review Team to demonstrate that relevant EU Member States are indeed aware of and are complying with their legal responsibilities in respect of the EU's CCSBT obligations.

The EU was able to demonstrate that it has comprehensive fishing vessel monitoring and fish product monitoring systems and processes in place. However, based on the information provided, it is clear that these EU monitoring systems and processes have not been designed specifically to meet its CCSBT obligations and associated MPRs relating to CCSBT National Allocations and the CCSBT Catch Documentation System (CDS).

The Review Team recognises that the EU's SBT fishery is a very small non-targeted / bycatch fishery with a current total annual catch limit of 11 tonnes and that under current policy and regulatory settings, the EU is unlikely to exceed this very small catch limit. Therefore, there is little risk of the EU's fishery having a significant adverse impact on the sustainability of the overall SBT stock.

Further, the Review Team notes that some CCSBT obligations are not always well aligned with the unique and limited nature and extent of the EU's participation in the SBT fishery. While it is outside the scope of this QAR's terms of reference to recommend any changes to CCSBT obligations and MPRs, the EU itself may wish to propose to the Extended Commission that it:

- Consider amendments and/or exemptions to the CCSBT's Catch Documentation Scheme to enable the EU to cost-effectively implement the scheme and so assist it to meet its CCSBT CDS obligations; and
- Consider a review of some of the MPRs associated with CDS obligations to determine if they are appropriate for the nature and extent of the EU's participation in the SBT fishery.

## 7. POST FINAL REPORT MEMBER COMMENTS

The EU provided some post final report comments on the outcomes of this QAR to the Executive Secretary of the CCSBT on 31 August 2021. Those comments are provided in this section of the report in line with the agreed methodology.

### ***Final Remarks on the QAR Report from the EU***

***(received 31 August 2021)***

*“The EU Delegation to the CCSBT thanks the Review Team for the final report, as well as for the responses and explanations provided in relation to our the remarks on the draft report.*

*These final remarks are complementary to the comments, replies and documents attached to the final report that have been conveyed by the EU during the QAR process.*

#### ***General remarks***

*We understand that the primary objective of this QAR is to assess the European Union’s compliance with the relevant CCSBT obligations with regard to the Compliance with National Allocations and the CCSBT Catch Documentation Scheme and to provide recommendations to improve compliance with those obligations associated to Minimum Performance Requirements (MPRs).*

*As we have noted repeatedly in our previous comments, since the European Union does not have a Southern bluefin tuna fisheries the QAR exercise should have also included considerations on cost-efficiency, risk analysis and the opportunity to revisit the relevant CCSBT Resolutions to fully take into consideration this specificity of the EU. In fact, the QAR seems to apply a one-fits all approach on the application of the CCSBT Resolutions and MPRs, overlooking possible gaps and deficiencies within the CCSBT legislation concerning the circumstances of the assessed Member.*

*The undertaking of tailored QARs adapted to the specificities of the assessed Member, could also provide an incentive to non-members, having incidental SBT by-catches and/or noteworthy markets, to become CCSBT Members and promote further compliance with the CCSBT rules.*

*On the other hand, this QAR has allowed us to identify some opportunities to improve the Monitoring, Surveillance and Control systems applied to SBT. In this framework, DG MARE in conjunction with EU Members States has already started working on fishing licences and clarified practical issues with customs on SBT imports. The EU will continue to undertake these efforts, notably on the improved monitoring of the infrequent SBT imports, and we may consider proposing to the Extended Commission some adjustments in relevant CCSBT Resolutions to reflect the specificities of non-fishing fleets that potentially could have SBT by-catches.*

*The scientific observer coverage in other RFMOs, flag/port state inspections and port sampling (the latter applied sporadically to double check SBT by-catches) are not directly influenced by CCSBT obligations. They have been, however, used as a reference in this QAR assessment to draw the conclusion that the EU has not been able to ensure full compliance. Moreover, it is stressed that the EU could not demonstrate that EU Member States are indeed aware of and complying with their legal responsibilities in respect of the EU’s CCSBT obligations regarding the Catch Documentation Scheme. The legal obligation exists and we are working with national administrations on a daily contact basis to improve performance, such contacts are extremely difficult to demonstrate in a desktop review. Nevertheless, we intend to further reinforce the legal framework in the short and medium term.*

*It is also repeatedly mentioned that there were some problems with fishing authorisations of EU-flagged longliners. Explanations have been given to clarify the identified shortcomings and misunderstandings have been solved. Insisting on these misunderstandings is not helpful, particularly when all referred vessels were authorised to fish and retain SBT and the identified shortcomings were a trivial administrative omission.*

*Finally, the list of the deficiencies on the application of the CDS (missing forms on SBT imports in Europe) happened at the very beginning of the CDS system when the EU was not yet a full Extended Commission Member. Since 2017 (4 cases between 2013 and 2017) all forms have been retrieved, we are working with national administrations to clarify the situation and will inform the secretariat on the conclusions of our investigations. However, these cases are not relevant anymore and DG MARE is working with EU Member States to prevent this kind of shortcomings in the future.*

### **Remarks on the Report**

- *Page 4: In conclusion summary, the Review Team found that the EU could not satisfactorily demonstrate that it is fully compliant with all of its CCSBT obligations and associated MPRs in respect of National Allocations and the CCSBT Catch Documentation System.*

*This conclusion seems a bit overstated. We agree that during the QAR process the Review Team identified some practical issues (fishing licences, CDS implementation) where there is room for improvement. However, with regard to national allocations the EU obligations are globally respected and the Review Team could not indicate a single instance where this obligation was not respected.*

*With regard to the Catch Documentation Scheme, the EU is already working on some solutions to improve the legal framework and considering proposing some simplifications in the CDS system matching the EU specificities and boosting fleets not fishing SBT to comply with CCSBT the CDS resolution.*

- *Page 23: Observer programmes are also in place according to other tuna RFMOs obligations. These programmes have been progressively implemented and in some cases the rate of coverage is still increasing to reach at least the minimal level requested by the respective tuna RFMO. The EU in coordination with its Members States involved in IOTC fisheries is looking to increase the rate of observer coverage.*

*All these observer programmes are now in line with the minimal level required by the respective tuna RFMO and the underperformance of the Spanish fleet in the Indian Ocean has been solved. However, in 2020 due to the COVID19 and according to exemptions agreed in tuna RFMOs there were substantial problems to all fleets to reach the minimal coverage level required (5%).*

- *Page 24: The Review Team is unsure as to the meaning of, “fully covered” in this statement.*

*It is not an obligation to have observers in areas at the south of the 30° South. However, observers covered the mentioned areas. In this context, “fully covered” means that the fishery observer coverage surpassed the coverage required by WCPFC.*

- *Page 26: From at least 2016 (and potentially 2015) onwards, no scientific observer coverage of target EU fisheries is recorded below 30°S for Spanish longliners fishing in the IOTC Area of competence.*

*With the increase of the Spanish observer coverage in the Indian Ocean, areas at the south of 30° South have been covered by observers, despite this is not an obligation.*

- *Pages 27/28 and 32: Review Team Conclusion: Compliance not demonstrated.*

*This conclusion overstates the fact the assessed provisions are not binding obligations. It also ignores that the EU forbids its vessels to target SBT and focuses the assessment on the implementation of other tuna RFMOs rules and obligations, where its vessels are operating, rather than the SBT fishery, where the EU is not active. Therefore, we consider that the appropriate conclusion for this part is 'Not applicable' but could it be recommended that the EU could further monitor, surveil and control its tuna surface longliners operating in the SBT distribution area.*

*Moreover in the course of the QAR, remedial and improvement measures have been taken, as indicated.*

- *Page 38: Review Team Conclusion: Compliance not Demonstrated*

*This conclusion seems to ignore that the fact and the evolution of events, some of which relate to issues that have been already solved. The relations between DG MARE, Member States and stakeholders and between Member States and stakeholders include informal contacts and capacity building actions that are not possible to demonstrate in a desktop review.*

*The examples given on Spanish fishing authorisations have been explained and solved and are not relevant anymore. Insisting on these misunderstandings is not helpful, particularly when all referred vessels were authorised to fish and retain SBT and the identified shortcomings are related to an administrative omission.*

- *Page 40/41: Compliance not Demonstrated.*

*If there are no SBT catches it is not possible to provide any proof that SBT by-caught by EU vessels is accompanied by CDS documentation. In any case, it would be important to consider the development of a simplified CDS system that could be applicable for those that do not have SBT fisheries and rarely have by-catches.*

*Since 2017, all CDS documents have been traced (SBT imports are rare in all Member States) and the examples of the past (in particular those before 2014), as already indicated, are not relevant anymore. Furthermore, the EU Member States are working on the matter and information will be provided to the Secretariat.*

*The principles applied to aquaculture products refer to the internal IUU regulation that do not apply to SBT. The case study has been solved and German authorities have been informed about the procedures.*

*In the course of the QAR, some explanations (CDS systems) have been provided to Member States and corrective measures, incorporation of relevant information and SBT obligations in fishing licences, have been implemented. The EU intend to undertake further measures to raise awareness and improve SBT control systems in Members States. The EU will improve the legal framework and may consider proposing some amendments to the CCSBT CDS to reflect the situation of fleets not fishing for SBT and having rare SBT by-catch.*

- *Page 45/46 and conclusion of the Page 47: EU-Spanish Longline Fleet Fishing in 2018*

*The problem in the fleet register was purely an administrative inaccuracy. References to the Spanish online fleet have been clarified and are not relevant anymore. The vessels were authorised to fish and retain SBT on-board, there is no room for any concern in this regard.*

- *Page 50/51 and conclusion of page 53: the obligation to carry on-board tags in EU vessels*

*As pointed out, the obligation to carry on-board tags in EU vessels is not a priority in view of the fact SBT catches are unlikely and unexpected and that there are no SBT by-catches reported since 2013. The EU may consider proposing some amendments to the CDS system to reflect this situation.*

- *Page 55/56 and page 60-62, CDS OBLIGATIONS D (Validation) CDS OBLIGATIONS F (Verification of CDS Documentation)*

*We have informed the Review Team on our CDS systems that since 2017 have been able to trace all CDS certificates. We recognise that there is room for improvement in these systems and we are already working to make them more effective. However, we have to keep in mind the relative insignificance of SBT imports in the European Union. There are between 0 and 3 small SBT consignments per year vs an average annual import of fish products into the EU close to 6 million tons.*

*Nevertheless, the EU intends to consider some corrective measures such as an alert that could trigger a message in the IT systems highlighting to the authorities dealing with these imports that they are subject to the specific CCSBT CDS rules. We could also consider the possibility of using of specific codes - as we do in ICCAT for Atlantic Bluefin tuna and CCAMLR for toothfish - that could trigger specific guidance for the services in charge of clearing such SBT imports.*

*With regard to the monitoring of imports, we intend to amend the existing framework to request Member States to report to the European Commission, any import covered by a CCSBT catch document.”*

## APPENDIX A

### Agreed QAR Methodology

January 2020

## EU Quality Assurance Review (QAR): Desktop Review Methodology

### Introduction

To date, Quality Assurance Reviews (QARs) have been conducted for seven out of the eight current CCSBT Members (Australia, Indonesia, Japan, Korea, New Zealand, South Africa and Taiwan) between 2013 and 2018.

This document outlines the methodology for conducting a desktop QAR of the remaining Member, the European Union<sup>64</sup> (EU) during 2020 according to the agreed Terms of Reference (ToR) provided at **Annex A**.

### Scope

The ToR defines the scope<sup>65</sup> of the EU QAR:

*“This QAR will review the suitability of the EU’s systems and processes for ensuring compliance with the following two key CCSBT measures:*

- *National allocations (i.e. by-catch of SBT); and*
- *The Catch Documentation Scheme (CDS).*

*In particular, this QAR will determine whether the EU’s systems and processes meet CCSBT’s minimum performance requirements<sup>66</sup> with respect to these two measures.”*

In this context, it will be taken into account that the EU forbids its vessels to target SBT and therefore has no directed SBT fisheries. Catches of Southern Bluefin Tuna are incidentally made by vessels fishing in other tuna RFMOs, in waters overlapping with the SBT distribution area.

### Purpose

The ToR also defines the purpose<sup>67</sup> of the EU QAR:

*“The purpose of this QAR is to independently document and evaluate whether the EU’s systems and processes, taking into account that the EU has no SBT fisheries ....., meet the relevant minimum performance requirements of CCSBT’s measures.*

*The reviewer must evaluate the EU’s current MCS<sup>68</sup> systems and processes with respect to the two key measures identified, and assess the following matters:*

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<sup>64</sup> The EU is a Regional Economic Integration Organisation (REIO) currently comprised of 28 Member States.

<sup>65</sup> Refer to section 2 of the ToR (**Annex A**)

<sup>66</sup> [Compliance Policy Guideline 1: Minimum performance requirements to meet CCSBT Obligations](#)

<sup>67</sup> Refer to section 4 of the ToR (**Annex A**)

<sup>68</sup> Monitoring, Control and Surveillance

- *What systems and supporting processes are in place for ensuring:*
  - *Compliance with the EU’s national allocation of the SBT Total Allowable Catch (TAC), in particular with respect to attributing mortalities from any SBT bycatch and discards, and for recording and verifying any catches any landings of SBT; and*
  - *The requirements for the importation of SBT products including effective implementation of the CDS are met?”*

## **Review Team**

The QAR will be conducted by:

- Susie Iball, Compliance Manager, CCSBT and
- GT (Stan) Crothers, contracted consultant.

Information on the Review Team’s relevant qualifications and experience is provided at **Annexes B and C** respectively. Due to the limited consultancy funds available, it is planned that the majority of the work will be conducted by the Compliance Manager and that the consultant will generally operate in an advisory, recommendatory and support role.

## **Confidentiality Arrangements**

The Compliance Manager and Consultant have signed a confidentiality agreement or a contract for this work containing an appropriate confidentiality clause.

## **Review Process**

In order to be consistent with already completed desktop QARs, the general methodology developed in 2013 by SAI Global will be retained. It includes the four review steps described below<sup>69</sup>:

- 1) *“Management System Review*  
*The overall framework for management of SBT to ensure compliance with allocations.*
  
- 2) *Process and Implementation Review*  
*The implementation of the fishery management system (description, features, specific measures, actions, rules/regulations that allow for implementation, catch recording, catch reporting and compliance). Evidence of implementation such as specimen records, reporting and recording documents will be requested to allow verification of the system’s effectiveness to be assessed.*
  
- 3) *Management System Effectiveness*  
*The outcome of the analysis documented using a SWOT analysis with regard to the extent that the management system implementation effectively demonstrates compliance to each of the Minimum Performance Requirements.*

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<sup>69</sup> Refer to the Methodology section (1.1 – Phase 1 QARs) of each completed Member QAR report

#### 4) Recommendations for Improvement

*Areas identified through the review that may result in improved Member compliance (or improved reporting effectiveness for purposes of subsequent QAR activities). This is presented using the Opportunities component of the SWOT analysis.”*

While undertaking the above four review steps, the specificities of the EU as a supranational organisation and the lack of targeted SBT fisheries<sup>70</sup> will be taken into account and the review approach adopted accordingly.

As specified by the QAR ToR, in assessing the suitability of systems, the desktop QAR will take into account the particular circumstances and characteristics of the EU (*i.e.* absence of a target SBT fishery) and will provide a high-level review of the EU’s MCS systems in the following two areas:

- **Distant Water Bycatch Fishery** – emphasis will be placed on the systems and processes in place for the accurate reporting and verification of any bycatch and discards, as well as for recording and verifying any landings of SBT; and
- **Market State** – emphasis will be placed on the systems and processes in place to support requirements for the importation of SBT products including effective implementation of CDS requirements.

Further, the EU QAR methodology will include the following general steps that are noted in the ToR<sup>71</sup>:

“

- 1) *Analysis of existing documentation, in particular the most recent National Report submitted to the CCSBT by the EU;*
- 2) *Determination of whether the EU’s selected pertinent internal documentation adequately describes and reflects the relevant CCSBT systems and processes that are actually in place?*
- 3) *Verification of the existence of relevant EU data capture and information documents including:*
  - *Documents to provide information on processes for the appropriate implementation of CCSBT’s CDS including for receipt of imports, submission, validation and certification requirements and the use of CCSBT tags;*
  - *Documents to record any SBT bycatch and discards at sea, including information on observers’ responsibilities; and*
  - *Documents to record any SBT landings, exports, imports, CDS tags issued and CDS validators authorised (if required).*
- 4) *Determination of whether existing systems and processes are effective to ensure that the EU meets its CCSBT obligations?”*

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<sup>70</sup> Any potential catches of SBT would be made by vessels fishing in SBT fishing grounds located within other tuna RFMOs’ Convention Areas

<sup>71</sup> The EU has no Southern Bluefin Tuna directed fisheries and its vessels are prohibited, by law, to target SBT. In this framework, the EU highlights that there is no specific monitoring scheme and dedicated methodology, including internal documentation, catch data systems and information documents specifically reflecting CCSBT obligations. CCSBT obligations are met through the appropriate mechanisms of the Common Fisheries Policy.

## Definitions and Guidance for Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis

For the QARs which have already been completed, SAI Global defined how it determined strengths (S), weaknesses (W), opportunities (O) and threats (T) for the purpose of its SWOT analyses<sup>72</sup>. To maintain consistency between the EU QAR report and previous QAR reports, these same definition guidelines (see below) will also be used to conduct the SWOT analysis for the EU. They are as follows:

**(S) Strengths** – areas where the Review Team determine there is strong substantiated and documented evidence suggesting a high probability of conformity to an MPR clause.

**(W) Weaknesses** – areas where the Review Team determine the evidence presented some risk of non-conformity to an MPR clause.

**(O) Opportunities** – determined as Recommendations by QAR procedure. Areas of potential improvement of the Member/CNM Management System which could reduce the risk of non-compliance against a specific or a number of MPR clauses.

**(T) Threats** – areas that may present a risk to non-compliance of the Member System to their CCSBT obligations under Compliance Policy Guideline 1 and MPR included in the QAR.

N.B Threats are considered a risk outcome or consequence of areas that are identified as weaknesses during the SWOT analysis.

## Consultation with the EU

This desktop Quality Assurance Review (QAR) will be conducted by remote consultation with (a) nominated representative(s) of the European Commission Directorate-General for Maritime Affairs and Fisheries (DG MARE).

During the consultation the EU will:

- Respond to ad hoc queries and provide relevant supporting documentation to the Review Team<sup>73</sup> in a timely manner, taking into account the specificities of the EU as a supranational organisation, and notably the need for DG MARE to consult with relevant Member States;
- Provide a detailed description of the EU's:
  - compliance arrangements with respect to CCSBT's conservation and management measures, and
  - catch monitoring measures including, when applicable, actual longline observer coverage levels/effort of EU vessels when in SBT fishing grounds located within other tuna RFMOs' Convention Areas;
- Provide process flow maps illustrating at least:
  - How CCSBT obligations are disseminated to and flow back from Member States;
  - Processes for the validation of any Catch Documentation Scheme (CDS) documents recording any retained or exported SBT, if relevant;
  - Processes for the certification of CDS documents recording SBT imports;
  - Processes for the submission of CCSBT CDS documents to the CCSBT Secretariat within required timeframes;

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<sup>72</sup> Refer to the overall QAR reports provided each year (including for the trial reports), for example [CCSBT-CC/1310/12](#), section 3.5.12

<sup>73</sup> Whenever the EU provides documentation to the Review Team the pages relevant to the Review Team's request should be clearly indicated.

- Observer arrangements and record-keeping for EU vessels fishing in SBT fishing grounds located within other tuna RFMOs' Convention Areas, including monitoring of potential SBT bycatch and discards; and
- How any SBT with a live-weight equivalent of less than 50kg not included in vessel logbooks (whether retained or discarded) is recorded and/or estimated.

## QAR Report

The draft QAR Report will be provided to the EU for comment by the Review Team by 12 May 2020<sup>74</sup>. The final QAR report including the EU's comments on the QAR outcomes will be submitted as a meeting document to the Fifteenth Meeting of the Compliance Committee (CC15).

Note:

As this study is limited to a desktop QAR involving no on-site visits, the scope and quality of the final QAR report presented by the Review Team will be determined by the comprehensiveness of the information already held by the CCSBT Secretariat as well as the promptness and quality of additional information provided to the Review Team by the EU.

## Timeline

This desktop QAR will be conducted according to the following timeline:

Item	QAR Milestone	Responsibility	Due Date
1	The EU and other CCSBT Members are advised of the names and qualifications of the Review Team	Secretariat	13 Dec 2019
2	The QAR methodology is developed and consulted on	Review Team, EU	10 Jan 2020
3	The QAR methodology is approved	Executive Secretary, Compliance Committee Chair	23 Jan 2020
4	The name(s) of the EU's nominated DG MARE QAR contact(s) are provided to the Review Team	EU	17 Jan 2020
5	A detailed description of the EU's compliance and catch (which may only include bycatch) monitoring arrangements with respect to CCSBT's conservation and management measures including process flow maps of relevant systems and processes are provided to the Review Team <sup>75</sup>	EU	28 Feb 2020
6	Draft QAR report preparation proceeds in consultation with the EU. The EU is to provide any additional advice and access to systems, processes and information to the Review Team as requested	Review Team, EU	.... continuing
7	Preparation of the draft QAR report is completed and it is provided to the EU for its review	Review Team	12 May 2020
8	The EU provides any pertinent comments on the draft QAR report to the Review Team, particularly with respect to any factual errors and/ or omissions	EU	3 Jul 2020
9	After taking into account any comments received from the EU on the draft, the Review Team completes the final QAR report and it is provided to the EU and the Executive Secretary	Review Team	14 Jul 2020
10	The EU documents any comments on the QAR outcomes which it wishes to be attached to the final QAR report and provides these to the Executive Secretary	EU	3 Aug 2020
11	The finalised QAR report including the EU's comments on the QAR outcomes is submitted as a meeting document to CC15	Review Team, Secretariat	10 Sep 2020

<sup>74</sup> Refer to timeline item 7

<sup>75</sup> Refer to the previous section on 'Consultation with the EU' for details

**Terms of Reference for the 2020 Quality Assurance Review of the European Union (EU)  
for the Commission for the Conservation of Southern Bluefin Tuna**

## **1. INTRODUCTION**

The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) is an intergovernmental organisation responsible for the management of southern bluefin tuna throughout its distribution. Members of the Extended Commission (EC) comprise: Australia, the European Union (EU), the Fishing Entity of Taiwan, Indonesia, Japan, Republic of Korea, New Zealand and South Africa.

The CCSBT's objective is to ensure, through appropriate management, the conservation and optimum utilisation of southern bluefin tuna.

The purpose of the CCSBT's Quality Assurance Review (QAR) process is to provide an independent review to assist Members to identify how well their management systems function with respect to their CCSBT obligations and to provide recommendations on areas where improvement may be needed.

### **EU – Background Information**

The EU is a Regional Economic Integration Organisation (REIO) comprising 28 Member States. While EU Member States transferred their competences on fisheries to the EU, Monitoring, Control and Surveillance (MCS) capabilities generally remain the responsibility of the specific EU Member State.

The EU has a very specific profile as Member of the CCSBT Extended Commission. Unlike other CCSBT Members, the EU does not have a SBT fisheries. It does prohibit its vessels to target SBT and, the limited EU SBT quota (11t) is permitted exclusively for bycatch<sup>76</sup>. In this regard, the most recently recorded SBT bycatches were in 2012 (4.4 tonnes).

The EU has also a negligible trade in SBT.

There is no specific department dealing with SBT in the EU or its Member States. Instead, the EU has dedicated human and administrative resources to other tuna RFMOs in areas where SBT could potentially be by-caught. The assessment of the EU management of those RFMO's fisheries does not fall within the remit of the CCSBT.

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<sup>76</sup> Council Regulation (EU) 2019/124 of 30 January 2019 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

## 2. SCOPE

This QAR will review the suitability of the EU's systems and processes for ensuring compliance with the following two key CCSBT measures:

- i) National allocations (i.e., by-catch of SBT); and
- ii) The Catch Documentation Scheme (CDS).

In particular, this QAR will determine whether the EU's systems and processes meet CCSBT's minimum performance requirements<sup>77</sup> with respect to these two measures.

The consultation is to take place with the European Commission Directorate-General for Maritime Affairs and Fisheries.

In assessing the suitability of systems, the QAR will take into account the particular circumstances and characteristics of the EU (i.e., absence of a SBT fisheries) and will provide a high-level review of the EU's MCS systems on the following two areas:

- i) **Distant Water Bycatch Fishery** – emphasis will be placed on the systems and processes in place for the accurate reporting and verification of any bycatch and discards, as well as for recording and verifying any landings of SBT; and
- ii) **Market State** – emphasis will be placed on the systems and processes in place to support requirements for the importation of SBT products including effective implementation of CDS requirements.

## 3. LANGUAGE

The review will be conducted in English.

## 4. REVIEW PROCESS

### Desktop Review

The purpose of this QAR is to independently document and evaluate whether the EU's systems and processes, and taking into account that the EU has no SBT fisheries and the other elements mentioned in the background information, meet the relevant minimum performance requirements of CCSBT's measures.

The reviewer must evaluate the EU's current MCS systems and processes with respect to the two key measures identified, and assess the following matters:

- What systems and supporting processes are in place for ensuring:
  - Compliance with the EU's national allocation of the SBT Total Allowable Catch (TAC), in particular with respect to attributing mortalities from any SBT bycatch and discards, and for recording and verifying any catches any landings of SBT; and
  - The requirements for the importation of SBT products including effective implementation of the CDS are met?

It is expected that the review will involve the following general steps:

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<sup>77</sup> These can be found on the CCSBT website

- 5) Analysis of existing documentation, in particular the most recent National Report submitted to the CCSBT by the EU;
- 6) Determination of whether the EU's selected pertinent internal documentation adequately describes and reflects the relevant CCSBT systems and processes that are actually in place?
- 7) Verification of the existence of relevant EU data capture and information documents including:
  - Documents to provide information on processes for the appropriate implementation of CCSBT's CDS including for receipt of imports, submission, validation and certification requirements and the use of CCSBT tags;
  - Documents to record any SBT bycatch and discards at sea, including information on observers' responsibilities; and
  - Documents to record any SBT landings, exports, imports, CDS tags issued and CDS validators authorised (if required).
- 8) Determination of whether existing systems and processes are effective to ensure that the EU meets its CCSBT obligations?

Following the above steps the reviewer should:

- Undertake a SWOT (strength, weakness, opportunities, threat/risk) analysis;
- Develop recommendations including whether there is any possible further improvement of the EU's compliance systems and processes, taking into account the results of the assessments listed above; and
- Prepare a draft report.

## 5. QAR REPORT

The report should describe the findings of the review of the EU's systems, analysis of the suitability of the systems and recommendations for improvements.

The following process and timeline should be followed in preparing the QAR report<sup>78</sup>:

- The reviewer will provide the draft report to the EU by xxxx<sup>79</sup>;
- The EU may seek clarification from the reviewer concerning the draft report and may provide comments to the reviewer on any aspect of the draft report, particularly in relation to factual errors and omissions. The EU's comments should be provided to the reviewer within 8 weeks of receiving the draft report and no later than xxxx;
- The reviewer will correct any factual errors reported by the EU. The reviewer will also consider other comments provided by the EU and make modifications to the report as the reviewer considers appropriate;
- The reviewer will provide the finalised report to the EU and to the CCSBT Executive Secretary no later than six weeks before the commencement of the Compliance Committee meeting. The table of contents of the finalised individual QAR Report will include provision for an attachment at the end of the report to be provided by the EU containing comments it wishes to make in relation to the outcomes of the QAR; and
- The Secretariat will provide a feedback form in relation to the reviewer's performance to Members.

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<sup>78</sup> These timeframes are necessary in order for the finalised individual QAR Reports to be commented on and distributed in time for consideration by the Annual Meeting of the CCSBT Compliance Committee.

<sup>79</sup> It should be re-iterated that the QAR is intended to be for the benefit of the Member and that discussion and feedback between the Member and reviewer during the review period is encouraged. Consequently, the Member should be aware of any significant outcomes before receiving the draft report.

## 6. CONFIDENTIALITY, DATA PROTECTION, COPYRIGHT and INTELLECTUAL PROPERTY (IP)

In carrying out this review the reviewer will have access to confidential and commercially sensitive information.

With the exception of the final QAR report, all information and material obtained or produced by the reviewer during the course of conducting a QAR is confidential between the reviewer and the EU and shall not be released by the reviewer to any other party either during or after conducting the QARs. The reviewer will be required to make a declaration to this effect.

The final QAR report will be subject to the CCSBT confidentiality requirements for documents submitted to a meeting of a subsidiary or advisory body of the Commission as described in Rule 10 of the CCSBT's Rules of Procedure.

Where the QAR auditors would come into contact with personal data it is necessary to refer to the full applicability of 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. Under this regulation, protected personal data is transferable outside of the EU under exceptional circumstances and only if the third country or the international organisation provides appropriate safeguards, and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

## 7. QUALIFICATIONS OF REVIEWER

The reviewer will be expected to have sound knowledge of fisheries management and fisheries monitoring, control and surveillance systems. The reviewer will also have relevant experience of auditing/reviewing such systems and be independent (i.e. no conflict of interest) of the agencies being reviewed.

The name and qualifications of the reviewer will be advised to the EU and CCSBT Members prior to the review taking place.

## 8. MANAGEMENT OF QAR PROGRAMME

The following roles and responsibilities for the effective implementation of this QAR programme have been identified:

- i) **Executive Secretary** – to manage the QAR contract;
- ii) **Executive Secretary and Chair of the Compliance Committee** – approve review methodology in consultation with the EU, provide technical advice to the reviewer and peer review the final overall report;
- iii) **QAR Coordinator** – the EU is responsible for appointing a suitably qualified official to coordinate the QAR activities, including providing technical support and advice;
- iv) **Reviewer** – must complete this QAR based on these Terms of Reference, the established methodology and the direction of the Executive Secretariat; and
- v) **EU** – to provide advice and access to systems, processes and information to the reviewer, provide the reviewer with feedback on the draft QAR Report and provide feedback on the performance of the reviewer to the Executive Secretary.

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# SUSIE IBALL

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Fisheries professional with a variety of experience, including almost twelve years working in the Regional Fisheries Management Organisation (RFMO) environment and fourteen years in various domestic fisheries roles (science policy, information management and compliance) within New Zealand's Ministry of Fisheries (now Fisheries NZ).

## Relevant Qualifications

Master of Science (1<sup>st</sup> Class Hons.)  
 Bachelor of Science  
 University of Auckland, New Zealand

## Employment History

### International Fisheries

Mar 2012 – Current	Compliance Manager Secretariat of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), Australia
Jan 2008 – Mar 2012	Data Manager Interim Secretariat of the South Pacific Regional Fisheries Management Organisation (SPRFMO), New Zealand

### New Zealand Domestic Fisheries (Information Management, Compliance, Science Policy)

Jul 2007 – Jan 2008	Acting Information Manager, Fisheries Operations, Ministry of Fisheries, New Zealand
Mar 2006 – Jul 2007	Private Secretary (Fisheries), Office of the Minister of Fisheries, New Zealand Parliament
Jul 2004 – Mar 2006	Acting Supervisor, Compliance Communication Centre (Dec 05 – Mar 06)/ Compliance Business Reporting Analyst, Ministry of Fisheries, New Zealand
Jun 1998 – Jul 2004	Analyst and Analyst Programmer, Fisheries Catch & Effort System, Ministry of Fisheries, New Zealand
May 1996 – Jun 1998	Science Policy Analyst, Ministry of Fisheries, New Zealand.

## Technical Reviews Completed (consultancy)

Jan- Feb 2016:

**For the Areas Beyond National Jurisdiction (ABNJ) Tuna Project (contracted by the FAO)**

A full technical review of the draft FAO Aquaculture and Fisheries Technical paper No. 596: "Design Options for the Development of Tuna Catch Documentation Schemes", by Gilles Hosch (2016)

["Design Options for the Development of Tuna Catch Documentation Schemes"](#)

## CURRICULUM VITAE

**Name:** G T (Stan) Crothers

**Contacts:** 11B / 192 Willis Street  
Wellington, 6011,  
New Zealand.

Telephone: +64-4384-3844

Mobile: +64-21-466-140

Email: [crothers@xtra.co.nz](mailto:crothers@xtra.co.nz)

### Work history

- 2009 - 2020 International Fisheries Management Advisor / Consultant.
- Tokelau Fisheries Management Advisor 2011 - Present.
  - FIMS Inc Board member 2019 - Present.
  - PNA Association Board member 2014 - Present.
  - Chair of World Bank ProFish Steering Committee 2009 - 2012.
  - Chair of AllFish Steering Committee 2009-2012.
  - Independent Chair of the Southern Bluefin Tuna Commissions' Compliance Committee 2009 - 2014.
  - Strategic Advisor to the New Zealand Ministry of Fisheries 2009 - 2011.
- 1995 - 2009 New Zealand Ministry of Fisheries.
- 1995 - 2009 Deputy Chief Executive / Acting Chief Executive.

1973 - 1995

New Zealand Ministry of Agriculture and Fisheries.

- 1981 - 1995 National Compliance Manager.
- 1987 - 1988 Seconded to US (NOAA Fisheries).
- 1978 - 1981 Compliance Training Officer and Compliance Policy Advisor.
- 1973 - 1978 Fisheries Enforcement Officer.

### **Professional Profile**

#### **Key Strengths**

- Designing and implementing rights-based fisheries management regimes.
- Economic analysis and policy advice.
- Working with diverse cultures and maintaining effective relationships with fisheries stakeholders.
- Advising and supporting political decision makers
- Institutional analysis, design and implementation.
- Analysis and design of accountable fisheries governance arrangements and the efficient delivery of fisheries management, compliance and research services.
- Statutory decision making and an in-depth knowledge of New Zealand Administrative Law

#### **Areas of expertise**

1. Fisheries policy development and implementation
2. Strategic planning and management.
3. Public Sector leadership and management
4. Fisheries compliance management.
5. International fisheries

## **Experience in areas of expertise**

### ***1. Fisheries policy development and implementation:***

- Developed and led the implementation of the Tokelau Fisheries Management Policy
  - Developed the systems and process policy framework for the Parties to the Nauru Agreement Vessel Day Scheme.
  - Participated in the design and implementation of New Zealand's Exclusive Economic Zone.
  - Participated in the design and implementation of New Zealand's Quota Management System.
  - Policy development and implementation of New Zealand's fisheries cost recovery regime.
  - Policy development for recreational fisheries management.
  - Policy development and legislative reform for aquaculture management.
  - Policy development and implementation for marine protected areas, protected species, and marine mammal protection.
- 
- Participation in the settlement of indigenous fisheries rights claim. (Maori Fisheries Deed of Settlement)
  - Managed the development and passage of fisheries and aquaculture legislation.
  - Developed policy, institutional and legal frameworks for decentralising fisheries management (State provision/contracting out/devolution).
  - Participated in development of New Zealand's Oceans Policy.
  - Involved in the development of the Foreshore & Seabed Policy and supporting legal framework.

### ***2. Strategic planning and management:***

- Actively involved in the development of the Parties to the Nauru Agreement Strategic Plan.
- Led the development of the Forum Fisheries Agency's Strategic Plan.
- Led the establishment of the new stand-alone NZ Ministry of Fisheries.
- Strategic leadership/management of NZ Ministry of Fisheries
- Developed Strategic Plans for the management of New Zealand fisheries.
- Intellectual leadership of New Zealand fisheries management strategy and supporting policy and legal frameworks.
- Built consensus within the fisheries sector on its strategic direction.
- Assisted and advised on the development of the New Zealand Seafood Industry's economic development strategy.

### ***3. Public sector leadership and management:***

- Led the development of the Ministry of Fisheries Strategic and Corporate Plans.
- Led the development of annual business plans and budgets in a rigorous cost recovery environment.
- Led the public policy/political interface in the fisheries sector.
- Acted as a statutory decision maker.

- Managed across Government agency projects.
- Implemented, within the Ministry of Fisheries, the reforms related to the State Sector and Public Finance Acts.
- Implemented best practice human resources and financial systems and processes.
- Managed the organisational design and development of the Ministry of Fisheries governance arrangements.
- Designed and managed restructuring / change management processes.
- Managed corporate and fisheries information management systems.

#### **4. Fisheries compliance management:**

- Participated in the development of the Forum Fisheries Agency fisheries monitoring, surveillance, control and enforcement strategy.
- Participated in the development and implementation of the Parties to the Nauru Agreement Compliance Strategy.
- Developed a Compliance and Enforcement policy framework for the Ghanaian and Oman Governments.
- Facilitated the development and implementation of the Convention for the Conservation of Southern Bluefin Tuna compliance strategy and regime (including independent quality assurance reviews).
- Developed New Zealand fisheries compliance policy and strategy framework.
- Specified the nature and extent of compliance services to support fisheries management objectives.
- Front-line enforcement experience.
- Extensive compliance management experience including managing the delivery of fisheries compliance services for over 20 years.
- Compliance information systems management.
- Designed compliance regimes for New Zealand's fish management systems including the Quota Management System (ITQs), EEZ, etc.
- Compliance staff training and development strategy design and implementation.
- Compliance HR and financial systems design and implementation.
- Designed and implemented legislative compliance regimes.

#### **5. International fisheries:**

- Chaired the Commission for the Conservation of Southern Bluefin Tuna.
- Represented New Zealand in international fisheries forums (FAO, CCSBT, OECD, CCAMLR, WCPFC, FFA, WB, etc.)
- Represented Tokelau at FFA, WCPFC, PNA, PPA, etc.
- Written and presented papers and keynote addresses at many international conferences.
- Provided fisheries management advice to various governments as part of World Bank/FAO expert teams.
- Provided fisheries management advice to a range of country's and international agencies as part of New Zealand's international fisheries relationships and obligations.
- Developed strategic plan and governance arrangements for the South Pacific Forum Fisheries Agency.
- Participated in the New Zealand delegation in the negotiations in the South Pacific Regional Fisheries Management Organisation Convention.
- Chaired World Bank ProFish Steering Committee

- Chaired AllFish Steering Committee – a public/private partnership between World Bank/FAO and ICFA
- Independent Chair of the CCSBT Compliance Committee
- Provided fisheries policy and management advice to the governments of Argentina, Australia, Canada, Chile, Ghana, Iceland, Kenya, Peru, Tanzania, Uganda, and the USA.
- Provided fisheries policy and management advice to the governments of Tokelau and the eight Pacific Island countries that are Parties to the Nauru Agreement. (FSM, Kiribati, Marshal Islands, Nauru, Palau, PNG, Solomon Islands, & Tuvalu).
- Participated in the renegotiation of the tuna treaty between the Pacific Island countries and the USA.

## APPENDIX B

### The EU's Commitment on becoming a Cooperating Non-Member (CNM) of CCSBT



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR FISHERIES AND MARITIME AFFAIRS  
External Policy and markets  
International and regional arrangements

17.01.2007 D 00456

Brussels,  
FISH/B-2 AJ/ms D(2006)

*File EU*

#### FAX

<b>To:</b>	Mr Neil HERMES Executive Secretary CCSBT Secretariat PO Box 37 Deakin West ACT 2600 AUSTRALIA	<b>E-mail:</b>	nhermes@ccsbt.org
		<b>Fax:</b>	+ 61-2-6282-8407
<b>From:</b>	Mr John SPENCER FISH/B-2 J-99 2/91	<b>Telephone:</b>	+ 32-2-295.68.58
		<b>Fax:</b>	+ 32-2-295.57.00
<b>Number of pages:</b>	2		
<b>Subject:</b>	Cooperating Non-Member Ref: Our fax No D/11989 of 23 October and your e-mail of 14 December 2006		

Dear Mr Hermes,

Allow me firstly to congratulate you upon your taking up of office as new Executive Secretary of the CCSBT.

Thank you for your letter regarding the decision during the CCSBT Annual Meeting in October 2006 to offer for the European Community to become a Cooperating Non-Member of the CCSBT and a quota of 10 tonnes. It is with great pleasure that the EC accepts this offer. You will find enclosed a statement of the EC's commitment to the provisions prescribed in the resolution of the CCSBT establishing the status of Co-operating non-Members.

Looking forward to working closely with you.

Yours sincerely,

  
John SPENCER  
EC Head of Delegation to CCSBT

Copies: Messrs Deben, Beslier, Wieland, Gallizioli, Donatella  
Ms Johansson

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.  
Office: 2/59, Telephone: direct line (32-2) 296 68 11. Fax: (32-2) 295 57 00  
P:\FISH-B\B2\CCSBT\2006\Dec-Fax Secretariat-Answer Cooperating non-member status.doc

**STATEMENT TO THE CCSBT  
OF THE EUROPEAN COMMUNITY'S COMMITMENT TO PROVISIONS PRESCRIBED  
IN THE RESOLUTION TO ESTABLISH THE STATUS OF  
CO-OPERATING NON-MEMBER**

The European Community wishes to confirm its commitment with respect to provisions in Paragraph 4 and 5 of the Resolution, emphasizing the following specific matters:

**1. Catch Limits**

The European Community will manage the relevant fisheries to ensure that the annual catch volume of SBT does not exceed the catch limit decided at CCSBT. In this regard, the catch limit for the 2007 fishing season shall be 10 tonnes.

**2. Conservation and Management Measures**

The European Community will observe the conservation and management measures adopted by the Commission

**3. Data Provision**

The European Community will provide accurate catch data to the CCSBT each year.

**4. IUU Fishing**

The European Community will implement whatever domestic regulations are required to support the CCSBT's measures to combat IUU fishing.

\* \* \* \* \*

## APPENDIX C

### Exchange of Letters with the EU Confirm its Membership of the CCSBT's Extended Commission (EC)

AGREEMENT  
IN THE FORM OF AN EXCHANGE OF LETTERS  
BETWEEN THE EUROPEAN UNION  
AND THE COMMISSION FOR THE CONSERVATION  
OF SOUTHERN BLUEFIN TUNA (CCSBT)  
CONCERNING THE MEMBERSHIP OF THE UNION  
IN THE EXTENDED COMMISSION OF THE CONVENTION  
FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA

EL/EU/CCSBT/en 1

A. Letter from the European Union

Brussels, 29 April 2015

Sir,

I have the honour to refer to the Resolution to establish an Extended Commission and an Extended Scientific Committee (hereafter “the Resolution”), as amended by the 20th Meeting of the CCSBT in October 2013.

Paragraph 6 of the Resolution establishes that any regional economic integration organisation, entity or fishing entity, vessels flagged to which have caught SBT at any time in the previous three calendar years, may express its willingness to the Executive Secretary of the Commission to become a member of the Extended Commission and Extended Scientific Committee. To this end, the Executive Secretary of the CCSBT, on behalf of the Commission, will conduct an Exchange of Letters with the representative of such regional economic integration organisation, entity or fishing entity to this effect.

Regarding Paragraph 8 of the Resolution there are no changes to the EU entitlement of 10 tonnes for the years 2015-2017.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the CCSBT and the European Union to become Member of the CCSBT Extended Commission and Extended Scientific Committee in accordance with the provisions contained in the Resolution mentioned above.

ELI/EU/CCSBT/en 1

The EU would like to indicate its firm commitment to continue to respect the terms of the CCSBT Convention and comply with decisions of the Extended Commission.

This Agreement shall apply provisionally from the day following the day of your reply pending the notification by the Union of the completion of the procedures for its conclusion.

Please accept, Sir, the assurance of my highest consideration.

For the European Union



B. Letter from the CCSBT

*Yeosu, South Korea, 12 October 2015*

Madam,

I have the honour to acknowledge receipt of your letter of 29 April 2015, which reads as follows:

"I have the honour to refer to the Resolution to establish an Extended Commission and an Extended Scientific Committee (hereafter "the Resolution"), as amended by the 20th Meeting of the CCSBT in October 2013.

Paragraph 6 of the Resolution establishes that any regional economic integration organisation, entity or fishing entity, vessels flagged to which have caught SBT at any time in the previous three calendar years, may express its willingness to the Executive Secretary of the Commission to become a member of the Extended Commission and Extended Scientific Committee. To this end, the Executive Secretary of the CCSBT, on behalf of the Commission, will conduct an Exchange of Letters with the representative of such regional economic integration organisation, entity or fishing entity to this effect.

Regarding Paragraph 8 of the Resolution there are no changes to the EU entitlement of 10 tonnes for the years 2015-2017.

I should be obliged if you would acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between the CCSBT and the European Union to become Member of the CCSBT Extended Commission and Extended Scientific Committee in accordance with the provisions contained in the Resolution mentioned above.

EL2/EU/CCSBT/en 1

The EU would like to indicate its firm commitment to continue to respect the terms of the CCSBT Convention and comply with decisions of the Extended Commission.

This Agreement shall apply provisionally from the day following the day of your reply pending the notification by the Union of the completion of the procedures for its conclusion.”.

I have the honour to confirm that your letter and this reply constitute an Agreement between the CCSBT and the European Union to become Member of the CCSBT Extended Commission and Extended Scientific Committee.

Please accept, Madam, the assurance of my highest consideration.

For the CCSBT



EL2/EU/CCSBT/en 2

Brussels, 29 April 2015

Dear Bob,

Attached please find a signed EU letter and two letters on behalf of the CCSBT to be signed by you. Also enclosed is the authorisation of the Council empowering Ambassador Juhansone to sign the Letters on behalf of the Union.

Please return one of the signed CCSBT letters to us, at your convenience, to the following address:

Council of the European Union  
General Secretariat  
*Directorate-General Communication and Document Management*  
**AGREEMENTS OFFICE**  
*JL 10-70-LM-43*  
Rue de la Loi/Wetstraat 175 - 1048 Bruxelles/Brussel - Belgique/België

Direct tel: +32 2 281 54 73; Fax +32 2 281 84 03

Thank you for your assistance in this matter.

Kind regards,  
Breeda



Council of the European Union  
General Secretariat

Luxembourg, 20 April 2015

**FULL POWERS**

THE PRESIDENT OF THE COUNCIL OF THE EUROPEAN UNION  
has decided by these presents to confer full powers on

Ilze JUHANSONE

Ambassador,

Permanent Representative of the Republic of Latvia,  
Chairman of the Permanent Representatives Committee

to sign, on behalf of the European Union, the Agreement in the form of an Exchange of Letters between the European Union and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) concerning the membership of the Union in the Extended Commission of the Convention for the Conservation of Southern Bluefin Tuna.

The Council, upon completion of the internal procedures necessary for the conclusion of the Agreement, reserves the right to approve the instruments signed by its Plenipotentiaries in pursuance of the full powers conferred by these presents.

**The President of the Council  
of the European Union**

## APPENDIX D

### Report Received from the EU describing its compliance and catch monitoring arrangements (received 7 March 2020)

#### **EU Report: Description of monitoring arrangements with respect to CCSBT's**

This desktop Quality Assurance Review (QAR) will provide a high-level review of the EU's MCS systems in the following two areas:

- Distant Water Bycatch Fishery – emphasis will be placed on the systems and processes in place for the accurate reporting and verification of any bycatch and discards, as well as for recording and verifying any landings of SBT; and
- Market State – emphasis will be placed on the systems and processes in place to support requirements for the importation of SBT products including effective implementation of CDS requirements.

In assessing the suitability of systems, the QAR will take into account the particular circumstances and characteristics of the EU.

#### **Background**

The EU is a Member of the Extended Commission of CCSBT since 2015 and before that had been a Cooperating Non-Member since 2006. The main EU interests in the CCSBT lies in the similarities between the management of Southern Bluefin Tuna (CCSBT) and Atlantic Bluefin Tuna (ICCAT) and the wish to ensure coherence, as well as to acquire and share experiences, in the management of these stocks.

The EU forbids its vessels to target Southern Bluefin Tuna (SBT), so the EU catches of SBT are limited to sporadic by-catches of the EU longliners targeting swordfish in the Southern part of the Indian, Western and Central Pacific and Atlantic Oceans. EU fleets have not reported any by-catches of SBT since 2013. The EU by-catch quota of SBT is currently 11 tonnes.

While EU is fully committed to the fulfilment of its CCSBT obligations, it must be noted that there is no specific department dealing with SBT in the EU or its Member States. Instead, the EU has dedicated human and administrative resources to other tuna RFMOs in areas where SBT could potentially be caught as by-catch but the assessment of the EU management of those RFMO's fisheries is beyond the mandate of CCSBT.

Monitoring Control and Surveillance (MCS) arrangements applicable to the EU surface longline vessels, operating intermittently in the SBT distribution area, are based on the related measures in force in the Common Fishery Policy (CFP) that forms the foundation of fisheries management in the EU, as well as on the obligations set in other tuna RFMOs.

SBT imports, in the EU, and therefore any EU intra-trade or exports, are very unlikely and when they happen they are limited to negligible quantities (some dozen Kg in dispersed years). Despite the important dimension of the EU market and consumption of fishing products, there is an insignificant interest in SBT products, which is mainly caused by the abundance and the quality of the competitive Atlantic Bluefin Tuna in Europe.

## 1. EU surface fisheries in the SBT distribution area

EU vessels are prohibited from targeting SBT, any incidental catches are the result of EU surface longliners' by-catches, operating in the zone of SBT distribution, mainly targeting swordfish, in the Southern part of the Indian, Western and Central Pacific and Atlantic Oceans. On a yearly basis the EU Fishing Opportunities Regulations<sup>80</sup> prohibits targeting SBT and explicitly mentions that the allocated EU quota is to be used exclusively to account for by-catch in compliance with the CCSBT allocation.

In 2018 there were 56 oceanic surface longliners operating in the Southern Hemisphere, 43 from Spain were active in the Southern Atlantic, Indian or West Pacific Oceans, 11 from Portugal were active in the Southern Atlantic or Indian Oceans and 2 from the UK that operated in the Southern Indian Ocean. All these vessels mainly targeted swordfish (some fishing in the Southern Atlantic targeted Tropical Tunas) outside the SBT distribution area but some of them enter intermittently in fishing grounds where encounters with the SBT could occur. However, interactions with SBT are unusual.

The average size of these long-liners is roughly 40 meters, ranging from 30 to 50 meters. There are also some small surface longliners mainly active in La Reunion EEZ, fishing albacore and tropical tunas but not operating in areas of SBT distribution (i.e. not interfering with SBT fisheries). EU Purse Seiners operating in the Southern Hemisphere do not harvest SBT as they fish in tropical tunas' fishing grounds.

Since 2010 the level of catches has been maintained below the 10 tonnes allocated to the EU under the CCSBT SBT TAC for this purpose and since 2013 there were no records of SBT by-catches.

Catches are recorded through logbooks (electronic) and fishing reports, which are validated by the scientific bodies, as well as observer reports and flag State inspections. Port State inspections, reports and any related information provided by foreign States, notably those having fisheries agreements with the EU, might also contribute to the calculation of the catches.

## 2. Monitoring, Control and Surveillance (MCS) Systems

### 2.1 Common Fisheries Policy

The Common Fishery Policy (CFP)<sup>81</sup> is the overall legal framework for all EU fishing activities around the world. The objective of the CFP is to ensure that fishing and aquaculture activities conducted by EU vessels are environmentally sustainable in the long term and managed in a way consistent with economic, social and employment benefits. Its success depends very much on the implementation of an effective control and enforcement system.

As regard control, the core elements of the EU legislation are provided by

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<sup>80</sup> See Annex IG of the [Council Regulation No 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks, Official Journal of the European Union, L 27, 31.1.2018.](#)

For 2017, see Annex IG of the [Council Regulation 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks, Official Journal of the European Union, L 24, 28.1.2017.](#)

For 2019, see Annex IG of the [Council Regulation No 2019/124 of 30 January 2019 fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, Official Journal of the European Union, L 29, 30.1.2019.](#)

<sup>81</sup> [Regulation \(EU\) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations \(EC\) No 1954/2003 and \(EC\) No 1224/2009 and repealing Council Regulations \(EC\) No 2371/2002 and \(EC\) No 639/2004 and Council Decision 2004/585/EC.](#)

- Regulation (EC) No 2009/1224<sup>82</sup> ('the Control Regulation'), seconded by Regulation (EU) No 2011/404<sup>83</sup> (implementation rules)
- Regulation (EC) No 2008/1005 ('the IUU regulation')<sup>84</sup>, seconded by Regulation (EU) No 2009/1010 (implementation rules<sup>85</sup>)
- Regulation No 2019/1241<sup>86</sup> on 'Technical Conservation Measures'
- Regulation (EU) No 2017/2403 on the sustainable management of external fishing fleets<sup>87</sup> (SMEFF)

The current Control Regulation entered into force in 2010 to foster a level playing field among Member States and fishing operators. The control system has been designed to:

- ensure that only the allowed quantities of fish are caught and illegal fishing is prevented;
- allow data collection to manage fishing opportunities;
- clarify the respective roles of EU countries and the Commission;
- ensure rules and sanctions are uniformly applied across the EU;
- enable the tracing and checking of fisheries products throughout the supply chain, from net to plate.

The 'Technical Conservation Measures' are a broad set of rules which govern how, where and when fishermen may fish, as well as determining the type of gear, catch composition and ways to deal with accidental catches.

The SMEFF Regulation covers all EU vessels fishing outside EU waters, as well as third-country vessels fishing in EU waters. This Regulation provides in particular for a system of issuing and managing fishing authorisations, necessary to operate outside EU waters, and intended to improve monitoring and transparency of the fishing operations conducted by the EU external fishing fleet.

The European Commission continually performs regular audits and inspections of the European Member States control systems in place, to ensure that they do comply with all the EU obligations, including those contracted at international level, and are effective. Deficiencies are identified through audits and addressed through action plans. Where necessary, the cases are brought to Court.

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<sup>82</sup> [Council Regulation \(EC\) No 2009/1224 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy.](#)

<sup>83</sup> [Commission Implementing Regulation \(EU\) No 2011/404 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.](#)

<sup>84</sup> [Council Regulation \(EC\) No 2008/1005 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.](#)

<sup>85</sup> [Commission Regulation \(EU\) No 2009/1010 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation \(EC\) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing.](#)

<sup>86</sup> [Regulation \(EU\) 2019/1241 of the European Parliament and of the Council on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations \(EC\) No 1967/2006, \(EC\) No 1224/2009 and Regulations \(EU\) No 1380/2013, \(EU\) 2016/1139, \(EU\) 2018/973, \(EU\) 2019/472 and \(EU\) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations \(EC\) No 894/97, \(EC\) No 850/98, \(EC\) No 2549/2000, \(EC\) No 254/2002, \(EC\) No 812/2004 and \(EC\) No 2187/2005.](#)

<sup>87</sup> [Regulation \(EU\) No 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets.](#)

During 2018 and 2019 an audit series was conducted on the EU's 'external fleet', referring to vessels fishing outside EU waters and under Sustainable Fisheries Partnership Agreements (SFPA), private agreements, RFMOs and on the high seas outside RFMO arrangements. The main objective of this exercise was to assess whether the monitoring and control of the external fleet is effective and complies with applicable regulations.

## 2.2 EU Monitoring, Control and Surveillance (practicalities)

The EU Control Regulation requires all EU vessels over 10m to keep a logbook, which is an electronic fishing logbook (ERS) for vessels over 15m, to record all the fishing related activities associated to a fishing trip. This includes the quantities of each species caught during a fishing operation.

The master of any EU fishing vessel concerned is requested to transmit the ERS information to its flag FMC on a daily basis, including when there are no catches.

Information on sea-birds and turtles is not necessarily included in the log-book but it is reported as per each RFMO requirement.

Information on logbooks is checked and verified by scientific bodies. EU Members States use automated software and scientific validations to cross checking information, notably on transshipment authorisation/declaration/validation, inspections, landings and marketing (if applicable), audits and inspections and national plans.

Fishing authorisations are delivered by the flag Member State on the basis of an internal risk assessment procedure, and communicated to the European Commission for transmission to the RFMO concerned.

## 2.3 Observers

There is no specific SBT observer program as there are no fisheries targeting SBT and no substantial by-catches of SBT. However, there is an observer program aiming to reach at least 10% of observers for the EU surface long-liners mainly targeting swordfish, in the Southern Hemisphere and this is implemented in accordance with observer programs required by other tuna RFMOs.

## 2.4 VMS

All EU vessels operating in the SBT distribution area must comply with VMS requirements. In the event of a technical failure or non-functioning of the satellite-tracking device fitted on board a EU fishing vessel, the master or his/her representative shall, starting from the time that the event was detected or from the time that he was informed, communicate every 4 hours (or other time period, according to relevant RFMO legislation), to the FMC of the flag Member State the up-to-date geographical coordinates of the fishing vessel by appropriate telecommunication means.

The FMC of the flag Member State shall enter the relevant geographical positions into the VMS database without delay on their receipt. The manual VMS data shall be clearly distinguishable in a database from automatic messages. Where appropriate, those manual VMS data shall be transmitted without delay to coastal Member States.

## 2.5 Port Inspections

With regard to Port Inspections the EU has ratified the FAO Port State Agreement. There are no foreign vessels with SBT/SBT products on board using EU ports.

EU surface longliners fishing intermittently in SBT distribution area use, among others, ports in some CCSBT Members, such as South Africa and New Zealand, where vessels are inspected. In addition, inspections are also undertaken in other ports, notably in countries having Sustainable Partnership

Fisheries Agreements with the EU that in general are subject to the FAO or other tuna RFMO port inspection obligations.

### **3. SBT imports and trade**

Imports of fishery products in the EU are subjected to the EU Catch Certification Scheme. The EU Catch Certification Scheme is an essential part of Council Regulation (EC) No. 1005/2008 (IUU Regulation) and is intended to ensure that all marine fishery products traded with the EU stem from fishing activities carried out in accordance with applicable conservation and management measures. To achieve this, fishing products shall only be imported into the EU when accompanied by a catch certificate.

An internal assessment has been launched on the trade and intra-EU exchange of SBT following reporting by Global Trade Atlas (GTA) of SBT exchanges within the EU despite no imports/landings have been declared. The final conclusions indicate potential miscoding of SBT, notably by mistaken SBT with Atlantic Bluefin Tuna. GTA uses some non-official sources and therefore should not be taken as a certified reference of SBT trade flows.

### **4. CCSBT Resolutions**

As in other RFMOs, CCSBT Resolutions will be transposed to the EU legislation. Notwithstanding, before the transposition and pursuant to Article 216(2) of the Treaty on the Functioning of the European Union (EU), the EU as a Contracting Party to CCSBT is bound to ensure that the measures adopted by the Commission are effectively implemented by EU vessels.

Such international obligations are also directly binding for EU Member States by virtue of Article 216(2) of the Treaty on the Functioning of the European Union (EU). Member States are consequently bound to take the necessary measures to ensure compliance with the provisions of the CCSBT CMMs by their vessels and, as appropriate, their nationals. EU Member States are, every year following the CCSBT Annual Meeting, officially notified of all Resolutions and binding measures adopted by the Commission.

Moreover, in accordance with EU legislation, all EU vessels operating within SBT distribution area are subject to monitoring and control measures ensuring that CCSBT and EU Common Fisheries Policy rules are fully respected. Therefore all measures adopted by the Commission in its previous sessions are implemented by EU vessels operating in SBT distribution area.

### **5. CCSBT Monitoring Activities**

#### **5.1 DG MARE**

##### **5.1.1 Catch data (bycatch)**

DG MARE reports monthly to the Secretariat data on SBT catches (bycatch). This information is based on aggregated catch data provided by all EU Member States to the Aggregated Catch Data Reporting (ACDR). The ACDR is a compulsory IT tool by which Member States have to report the monthly catches of their entire fleets to the Commission in accordance with Article 33 of the Control Regulation (above mentioned Reg. 1224/2009). The data are due on the 15<sup>th</sup> day of the month following the catch month.

For the reporting to CCSBT, the data in ACDR is checked between the 15<sup>th</sup> and the end of the month for any entries of SBT catches of the previous month and also for the current year starting from January in order to identify any updates, if necessary.

A screen print of the ACDR is saved in the CCSBT folder and an e-mail reporting the result to CCSBT is sent monthly to the Secretariat. There have been no catches of SBT since 2013.

In addition, once a year in view of the preparation of the EU annual Compliance and Scientific reports, Member States with surface longliners entering in the SBT distribution area are inquired about potential SBT catches/bycatches. DG MARE prepares the mentioned annual reports based on the information provided by Member States. This information is validated by the Member States Scientific Institutes responsible for fisheries.

#### 5.1.2 Market State (SBT trade flows)

DG MARE quarterly reports to the Secretariat information on exports, imports and re-exports of Southern Bluefin Tuna (this also includes catches, domestic landings, farm stocking and farm transfers that in practical terms do not apply to the EU fleet).

This information is based on a standard data request sent about 1 month before the reporting deadline to all EU Member States. The Catch Documentation Scheme forms are attached to this data request as a reminder of the need to report trade flows according to the Implementation of a CCSBT Catch Documentation Scheme. DG MARE requires Member States to also reply in case there is nothing to report (which has been the case in all quarters since 2018).

DG MARE sends to the Secretariat the data provided by Member States.

#### Authorized vessels

DG MARE requests Member States, every year, information on vessels that can enter the SBT distribution area in order to include these vessels in the CCSBT vessel list and/or to update this list. Relevant information is sent to the CCSBT Secretariat based on the information received from Member States.

DG MARE also requests Member States to provide information on VMS (global plotter images) of the vessels that enter in the SBT distribution area to check fishing activities. If necessary for control purposes, specific VMS data per vessel and observer reports can also be requested to Member States.

### 5.1 EU Member States (case of Spain)

#### 5.2.1 Catch data (bycatch)

The Spanish Fishing Authority - in this case, the “Secretaría General de Pesca” in conjunction with the “Dirección General de Ordenación Pesquera y Acuicultura”, particularly the Sub-Dirección General de Control y Inspección (Deputy Directorate-General for Control and Inspections) - fulfils monthly its obligations on the Aggregated Catch Data Reporting, based on common process of crossing the data from logbooks, landings, sales notes, VMS, inspection reports, etc., providing SBT catch information.

The discards to be registered in the logbook have to weigh more than 50kg. However, from now on masters will be encouraged to report any discards at the end of the fishing trip. Information on these potential discards is also gathered by scientific observers. In the last few years the scientific observer coverage has substantially increased, nowadays it is about 10% for the EU surface longline fleet operating in the Southern Hemisphere.

#### 5.2.2 Market State (imports/exports of SBT products)

Different checks are done on imports/exports by the IUU unit of the Secretariat General for Fisheries with Customs and the Ministry of Health. Data from different sources as logbooks, landings, sales notes, VMS and AIS is also taken into account in these checks.

The Deputy Direction General for Control and Inspections is responsible for managing the Catch Documentation Scheme Certificates.

### 5.2.3 Authorized vessels

The Spanish vessels (as other EU Member State vessels) included in the CCSBT vessel list are all authorized to operate in at least in one of the other tuna RFMOs. The authorizations (Permisos temporales de pesca) issued by Spain for each of the vessels include references to the obligations in force in all relevant RFMOs, including CCSBT.

Moreover, the Spanish Fishing Authority also issue circulars, when necessary, on relevant matters/obligations to be accomplished by the national fleet operating in CCSBT.

### 5.2.4 Others

All Spanish Fishing vessels are tracked by the national FMC (Secretariat General for Fisheries). As previously noted, the EU surface longliners operating in the Southern Hemisphere are mainly active outside the SBT distribution area.

## APPENDIX E

### QAR Review Team Questions to the European Union (revised) & the EU's Responses - April 2020

#### Notes:

1. The document referred to as the EU's '*QAR monitoring arrangements document*' is the EU's document that was provided to the QAR Review Team entitled: "EU Report: Description of monitoring arrangements with respect to CCSBT's".
2. For the purpose of the questions below, the SBT distribution area, means CCSBT statistical area 1 plus the area between 30°S-50°S in all CCSBT statistical areas except for CCSBT statistical area 12 (which is within the IATTC Convention Area).

Obliga- tion(s)	MPR(s)	Question Number	Review Team Question	EU Response
<b>OVER-ARCHING QUESTIONS</b>				
		Q 1	<p>The EU's 'QAR monitoring arrangements document' (p4) states:  <i>"During 2018 and 2019 an audit series was conducted on the EU's 'external fleet', referring to vessels fishing outside EU waters and under Sustainable Fisheries Partnership Agreements (SFPA), private agreements, RFMOs and on the high seas outside RFMO arrangements. The main objective of this exercise was to assess whether the monitoring and control of the external fleet is effective and complies with applicable regulations."</i></p> <p>For the EU's 'external fleet' audit series carried out during 2018 and 2019:</p> <ul style="list-style-type: none"> <li>• Were any of the Portuguese, Spanish or UK longline fleets fishing in the SBT distribution area within RFMO arrangements part of this audit?</li> <li>• If so, were any deficiencies detected for any of the Portuguese, Spanish or UK longline fleets fishing within these RFMO arrangements, and if yes: <ul style="list-style-type: none"> <li>○ For which longline fleets were deficiencies identified?</li> <li>○ What was the nature of those deficiencies? and</li> <li>○ Are these deficiencies being addressed by an action plan – please provide the Review Team with the relevant part(s) of the respective action plan(s).</li> </ul> </li> </ul> <p>What were the overall recommendations and conclusion of the audit?</p>	<p>No deficiencies have been noted for the external fleet with regard to compliance with the requirements of the CCSBT.</p>

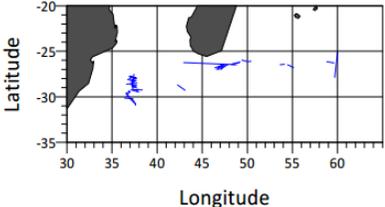
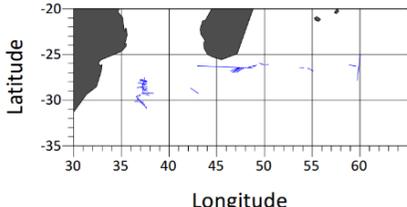
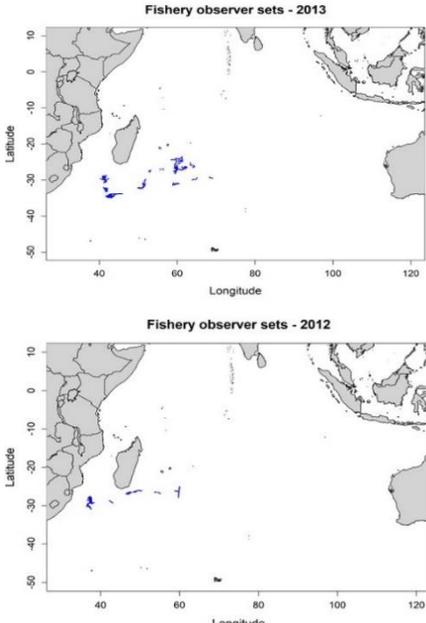
		Q 2	<p>What arrangements does the EU/ DG MARE have in place to ensure all Member States incorporate all CCSBT Conservation and Management Measures into their domestic legislation/regulations/licence conditions, including the ability to impose sanctions or remedies where necessary?</p>	<p>Every year, after the CCSBT annual meetings, EU Members States are formally notified of all adopted CCSBT Resolutions and reminded that the European Union (EU) and Members States are to comply with the adopted measures in order to discharge its international obligations under the CCSBT and that the EU, as a Contracting Party to CCSBT, is under an international obligation to ensure that those provisions are effectively respected. Pursuant to Article 216(2) of the Treaty on the Functioning of the EU, this international obligation also lies with Member States. In these circumstances, Member States are bound to comply with the provisions of the CCSBT Resolutions in issue and take the necessary measures to this end, even in the absence of transposition of the said measures into EU law. The large majority of the basic CCSBT obligations regarding control and monitoring and fight against IUU fishing are already part of the EU law (the so called 'acquis communautaire') through the EU Control, SMEFF and the IUU Regulations amongst others.</p> <p>In addition, also on yearly basis CCSBT measures related to Southern Bluefin Tuna fishing limits, TACs and quotas are transposed to the EU law through the annual EU Fishing Opportunities Regulation that prohibits the targeting of SBT and explicitly mentions that the allocated EU quota, of 11 tons, is to be used exclusively for by-catch in compliance with the CCSBT allocation. Moreover, transposition of all measures adopted in RFMO is undertaken periodically.</p>
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COMPLIANCE WITH NATIONAL ALLOCATIONS OBLIGATIONS/MPRS QUESTIONS				
i	2a	Q 3	<p>Regarding recording of data into logbooks as well as transmission of that information, the EU's 2019 annual report to CC/EC notes that:  <i>"According to European Commission implementing Regulation (EU) No 404/2011 of 8 April 2011, when at sea the master of an EU fishing vessel shall transmit the electronic fishing logbook information to the competent authorities of the flag Member State at least once a day and no later than 24.00 hrs even when there are no catches. He/she shall also send such data:</i>  <i>(a) at the request of the competent authority of the flag Member State;</i>  <i>(b) immediately after the last fishing operation has been completed;</i>  <i>(c) before entering into port;</i>  <i>(d) at the time of any inspection at sea;</i>  <i>(e) at the time of events defined in EU legislation or by the flag State."</i></p> <p>Please confirm whether Portugal, Spain and the UK each have national legislation to implement the above regulation. If they have, please provide documentation of any systems and processes that these 3 Member States have implemented to verify compliance with the above regulation.</p>	<p>According to EU law, this Regulation is directly applicable and considered as part of the domestic laws of EU Member States.</p>
i	2b,c	Q 4	<p><a href="#">Section I(2) of CCSBT-CC/1310/SBT Fisheries - EU</a> of the EU's annual report notes that discarding will gradually be prohibited through an obligation to land all catches.  But, the EU's 'QAR monitoring arrangements document' (p7) states:  <i>"However, from now on masters will be encouraged to report any discards at the end of the fishing trip."</i></p> <p>Please confirm if discarding by EU Members has been prohibited or not and if any SBT bycatch can be discarded?</p>	<p>Discarding of SBT is prohibited. The discarding of species subject to a quota is forbidden.  In fact, the information provided in the EU's annual report should be interpreted as referring to species not subjected to a quota or, in the case of SBT, to any fish lost during the hauling of the fishing gear.</p>
i	2b,c	Q 5	<p><a href="#">Article 14(1) of COUNCIL REGULATION (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy</a> describes the catch information that needs to be recorded in fishing vessel logbooks as:  <i>"1. Without prejudice to specific provisions contained in multiannual plans, masters of Community fishing vessels of 10 metres' length overall or more shall keep a fishing logbook of their operations, indicating specifically all quantities of each species caught and kept on board above 50 kg of live-weight equivalent."</i></p> <p>Does this paragraph mean that the total of all catch per species when 50kg or less live-weight equivalent does not need to be recorded in logbooks or does it mean something else? Please clarify.</p>	<p>It means that according to this EU Regulation all catch per species when 50kg or less live-weight equivalent does not need to be recorded in logbooks. However, CCSBT rules prevail and all SBT catches irrespective of the weight should be recorded in the logbook. More information regarding catch records are provided below and replies to questions 7-10.</p>

			<p>Note: the bycatch fishery flow chart provided to the Secretariat seems to indicate that the lack of an obligation to record 50kg or less live-weight equivalent in the logbook applies per trip – is this correct or does it apply for some other period e.g. per set or per day?</p> <p>The EU’s flow-chart states:  <i>“All catches of more 50kg/species/fishing trip shall be indicated in the electronic logbook. Masters will be encouraged to also record catches of species caught less than 50kg/fishing trip. In addition, all landings, including those of less than 50Kg/species, shall be reported.”</i></p> <p>Please provide the relevant Articles/paragraphs of the EU’s legislation that specify to what time/event period Article 14(1) above applies.</p> <p>In addition, for species caught which are 50kg or less live-weight equivalent and are not recorded in the logbook, can these species be landed and if so, are such landings reported and accompanied by appropriate documentation?</p>	<p>This indication is general and is not applicable in the case of the SBT, as explained in the previous reply.</p> <p>Idem. More information regarding catch records are provided below and in the replies to questions 7-10.</p> <p>Article 14, paragraphs 1 and 2; particularly 2 c) and d). However, as said CCSBT rules prevail and all SBT catches irrespective of the weight should be recorded in the logbook.</p> <p>Species caught which are 50kg or less live-weight equivalent can be landed and the master of a EU fishing vessel of 10 metres’ length overall or more, or his representative, shall complete a landing declaration, indicating specifically all quantities of each species landed (see Article 23 and related of the COUNCIL REGULATION (EC) No 1224/2009).</p>
i	2b,c	Q 6	<p><a href="#">Regarding Article 14(4) of COUNCIL REGULATION (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy:</a> <i>“4. Masters of Community fishing vessels shall also record in their fishing logbook all estimated discards above 50 kg of live-weight equivalent in volume for any species.”</i></p> <p>Does this paragraph mean that the total of all discards per species when 50kg or less live-weight equivalent does not need to be recorded in logbooks or does it mean something else? Please clarify.</p> <p>Over what timeframe does this lack of an obligation to record discards of 50kg or less apply? Is it per trip or some other period e.g. per set or per day?</p> <p>Please clarify and please provide the relevant Articles/paragraphs of the EU’s legislation that specify to what time/event period Article 14(4) above applies.</p>	<p>This provision is not applicable to SBT as discards are prohibited for species subject to a quota as the SBT.</p> <p>Per Fishing Trip, but this does not apply to SBT.</p> <p>Article 14.2 c) and d), but this does not apply to SBT.</p>

i	2b,c	Q 7	<p>Given that there is no obligation to record catches or discards of 50kg or less live-weight equivalent in logbooks: What mechanisms does the EU have to ensure it is aware of all SBT fishing-related mortality for the following cases:</p> <ul style="list-style-type: none"> <li>• SBT equivalent live-weight of 50kg or less that is retained on board, or</li> <li>• SBT equivalent live-weight of 50kg or less that is caught and discarded</li> </ul> <p>..... so that all fishing-related SBT mortality can be reported accurately to the ESC and incorporated into the calculation of the EU's 'Attributable SBT catch'? Please provide documentation of the relevant mechanisms.</p>	<p>As explained, there is an obligation to report all SBT catches irrespective of the weight and SBT discards of SBT are not allowed. These obligations have been progressively implemented. In addition, SBT mortality is also verified using landing declarations (Article 23 and related of the COUNCIL REGULATION (EC) No 1224/2009) and sales notes' information (see article 63 and related of the of the COUNCIL REGULATION (EC) No 1224/2009). Moreover, the calculation of the EU's 'Attributable SBT catch' also takes into account information from flag State inspections, port State inspections/reports and any related information provided by third countries , including those having fisheries agreements with the EU.</p>
i	4a	Q 8	<p>The EU's 'QAR monitoring arrangements document' mentions some systems and processes that independently verify logbook data (EU QAR doco) such as: <i>"Catches are recorded through logbooks (electronic) and fishing reports, which are validated by the scientific bodies, as well as observer reports and flag State inspections. Port State inspections, reports and any related information provided by foreign States, notably those having fisheries agreements with the EU, might also contribute to the calculation of the catches",</i> and <i>"Information on logbooks is checked and verified by scientific bodies. EU Members States use automated software and scientific validations to cross checking information, notably on transshipment authorisation/declaration/validation, inspections, landings and marketing (if applicable), audits and inspections and national plans."</i></p> <p>The Review Team notes that, for example, the observer coverage levels in the Spanish longline fleet in the IOTC Area have been very low (between 0.16% and 3.36% between 2010 to 2018 (with sometimes no observed sets below 30°S) and there has been no information provided concerning when Spanish authorities may carry out port sampling of its fleets that have fished in RFMO Convention Areas. In addition, there was no observer programme for the UK fleet fishing in the IOTC Area until July 2017.</p> <p>According to the EU, <i>"the current port sampling program for the Portuguese longline fleet does not cover those vessels operating in the IOTC conventional area",</i> and for the UK fleet in the IOTC Area, <i>"All UK vessels operating in the IOTC Convention area land their catches in third countries. The catches are usually loaded into containers and shipped to non-UK ports. The UK's port sampling programme does not cover those vessels but regular contact is made with the competent authorities of countries where we know that the vessels land. Port sampling is therefore carried out occasionally."</i></p> <p>Please clarify how logbook records are independently verified especially for longline fleets where levels of observer coverage and port inspections may be low.</p>	<p>Port sampling and self-sampling are undertaken on a voluntary basis by Member States, when possible, in other tuna RFMOs in order to gather catch information, namely for scientific purposes. Observer programmes are also in place according to other tuna RFMOs obligations. These programmes have been progressively implemented and in some cases the rate of coverage is still increasing to reach at least the minimal level requested by the respective tuna RFMO. The EU in coordination with its Members States involved in IOTC fisheries is looking to increase the rate of observer coverage. The implementation of these observer programmes is assessed in the Compliance Committee of the respective RFMO.</p> <p>With regard to catch data, a cross check is made with data from electronic logbooks, landing declarations, sales notes and documents provided to request a catch certificate (processing plant information). Nowadays this process is manual, but it will be progressively automatised. In addition to that, some vessels are already equipped with electronic devices and participating in e-monitoring projects, on voluntary basis.</p> <p>Information from flag State inspections, Port State inspections/reports and any related information provided by Third Countries is also used on the mentioned crosschecks.</p>

			For example, other sources of independent logbook verification could include E-monitoring, returns from processors, etc.	
i	2b,c	Q 9	<p>In its 2012, 2013 and 2014 annual reports, the EU mentions that small amounts of EU SBT catches may be sold fresh on local markets for consumption or sometimes donated to charity or consumed by the crew or given to local workers in the port of landing, i.e. sometimes not entering commercial channels. It is mentioned that these small bycatches may be offloaded in Papeete (Tahiti) and Durban (South Africa).</p> <p>Can the EU please confirm whether any of these practices are still be continuing and if so, describe how these SBT are incorporated into estimating Attributable Catch?</p>	We are not aware of any of these practices currently and since 2012 there are no reported SBT catches.
i	2b,c	Q 10	<p>The EU's 'QAR monitoring arrangements document' (p7) notes:  <i>"The Spanish Fishing Authority - in this case, the "Secretaria General de Pesca" in conjunction with the "Dirección General de Ordenación Pesquera y Acuicultura", particularly the Sub-Dirección General de Control y Inspección (Deputy Directorate-General for Control and Inspections) - fulfils monthly its obligations on the Aggregated Catch Data Reporting, based on common process of crossing the data from logbooks, landings, sales notes, VMS, inspection reports, etc., providing SBT catch information."</i></p> <p>There is an exemption from sales notes in Council Regulation (EC) No 1224/2009 in Article 65(2) where, <i>"2. A buyer acquiring products up to an amount of 30 kg which are not thereafter placed on the market but used only for private consumption shall be exempted from the provisions laid down in Articles 62, 63 and 64."</i></p> <p>Is it correct that amounts of product up to 30kg used only for private consumption would not necessarily require a sales note and therefore would not be able to be cross-checked by examining sales notes?</p>	These exceptions are not applicable to fishing vessels that are operating in the SBT distribution area. All quantities declared in related landing declarations have to be linked to a Sales Note. There are no reported SBT catches since 2012.

i	2b, c	Q 11	<p>Below are the maps (Fig 4) showing Portuguese longline sets in the IOTC Area covered by the Portuguese observer programme in 2012 (IOTC-2013-SC16-NR06):</p>  <p>Figure 4. Map showing the spatial distribution of longline sets covered by the.</p> <p>and 2013 (IOTC-2014-SC17-NR06):</p>  <p>Figure 4. Map showing the spatial distribution of longline sets covered by the observer program in 2013.</p> <p>The maps appear to be the same in both reports. Please could the EU confirm if the map provided for each of the 2012 and 2013 years is correct, and if not please provide the correct map.</p>	<p>In fact, there was an administrative oversight in the mentioned IOTC report, the maps were repeated and both referred to 2012. Please find the maps herewith corrected (using a new script/format). There was also an error in a longitude data that has been corrected.</p> <p>Both maps reflect the fishing activities covered by observers. They do not include self-sampling coverage that is also undertaken by the crew trained by scientific observers.</p> 
i	2b,c	Q 12	<p>CCSBT-CC/1910/SBT Fisheries – European Union states: “In 2018 there were 22 longliners operating in the South Indian Ocean, 3 in South West Pacific and 37 in South Atlantic, mainly fishing for swordfish, some of them entering intermittently in fishing grounds where encounters with the SBT could occur (see scientific report).”</p> <p><b>Should the CCSBT ESC report have referred to 2017 rather than 2018?</b></p> <p>We seek clarification because the IOTC (IOTC-2019-SC22-NR05) reports only 16 (11 Spanish + 3 POR + 2 UK) EU longliners active in the IOTC Area in 2018, but (IOTC-2018-SC21-NR05-EU Rev1) 22 EU longliners (14 ESP + 6 POR + 2 UK) active in the IOTC area in 2017.</p>	<p>In fact there were 16 (11 Spanish + 3 Portuguese + 2 UK) EU longliners active in the IOTC Area in 2018. The number of vessels active in Indian Ocean, as indicated in the last Annual Review of National SBT Fisheries for the Extended Scientific Committee (22 longliners, 14 vessels from Spain, 6 from Portugal and 2 from UK), related to 2017. This information has been extracted from the last available scientific report for IOTC, when we prepared the mentioned Annual Review to CCSBT. Information concerning the EU fleets active in the Western and Central Pacific and Atlantic Oceans relates to 2018, in fact the 2018 scientific reports to WCPFC and ICCAT were already available when we prepared the last Annual Review to CCSBT.</p>

i	2b,c	Q 13	For the period 2016 to 2019 inclusive, please provide a table showing annual EU longline fishing effort (hooks) and percentage observer coverage (hooks) that occurred in CCSBT statistical area 1 and between 30°S – 50°S in CCSBT statistical areas 2 - 9 and 14, 15 by Flag by year by CCSBT stat area.	This information is not available as such and it is not an obligation to the EU vessels to ensure any observer coverage in the mentioned areas. The EU vessels are not targeting SBT and SBT is not a substantial by-catch. However, observers are deployed in the EU Longliners entering in the SBT distribution area according to the requirements of the relevant tuna RFMO (IOTC, ICCAT and WCPFC). As repeatedly pointed out, EU vessels are forbidden to target SBT, SBT is an unlikely by-catch and the mentioned EU vessels only enter (and not all of them) intermittently in the SBT distribution area. Thus, the information available concerning observer coverage relates to global fishing areas as the Atlantic Ocean, Indian Ocean and Western and Central Pacific Ocean, where these vessels have been active targeting other species than SBT.
i	4a	Q 14	Do the EU Member States Portugal, Spain and the UK, require a minimum percentage of longliner trips/longliners that fished at any time within the SBT distribution area to undergo Flag State port inspections per year?  For each year between 2016 to 2019 inclusive, what percentage of longliner trips/longliners that fished at any time within the SBT distribution area were inspected by each Flag State (Portugal, Spain or the UK) while the catches from the SBT distribution area were still on board or being offloaded?	An important part of the catches of EU longliners (all flag states) operating in the Southern Atlantic Ocean, Indian Ocean and Western and Central Pacific Ocean is channelled to the Port of Vigo in Spain in containers transported by carriers. Between 2016 and 2019 inclusive, there were 27 port inspections of the mentioned carriers and there were no infringements detected related to SBT.
i	4a	Q 15	EU's 'QAR monitoring arrangements document' (p5): <i>"With regard to Port Inspections the EU has ratified the FAO Port State Agreement. There are no foreign vessels with SBT/SBT products on board using EU ports.</i>  <i>EU surface longliners fishing intermittently in SBT distribution area use, among others, ports in some CCSBT Members, such as South Africa and New Zealand, where vessels are inspected. In addition, inspections are also undertaken in other ports, notably in countries having Sustainable Partnership Fisheries Agreements with the EU that in general are subject to the FAO or other tuna RFMO port inspection obligations."</i>  In reference to the above statement, for each calendar year between 2016 to 2019 inclusive, how many EU Member-flagged longliners that fished in the SBT distribution area that were inspected by CCSBT port Members such as New Zealand or South Africa or by other non-EU port authorities while catches from the SBT distribution area were still on board or being offloaded.	We know - based on technical questions related to other species (sharks) - that some EU surface longliners entering in the SBT distribution area have been inspected by port authorities in foreign ports and have also been inspected in high seas by foreign inspection vessels (in WCPFC area), but the relevant authorities have never received any Inspection Reports nor specific complains concerning any of the inspected vessels. Thus, there is no available data indicating the precise number of vessels that have been inspected by foreign authorities. In these circumstances, it is fair to assume that there were no specific problems or infringements, including misreporting of SBT.
i	4a	Q 16	For each calendar year between 2016 to 2019 inclusive, how many High Seas inspections have been carried out on EU Member-flagged longliners that fished in the SBT distribution area while the catches from the SBT distribution area were still on board?	The reply to this question is partially addressed by the previous point. In the WCPFC area since 2016, there were 3 high seas inspections carried out on EU surface longliners.

i	3	Q 17	The EU's 2019 annual report to the ESC records any catches from the year 2000 onwards as having only occurred in the Indian Ocean, while other reports such as CCSBT-CC/1209/ST Fisheries – EU (p4), and section II(5) and p15, section III(1) of CCSBT-CC/1310/ST Fisheries (p12) refer to, <i>“By-catches of SBT taken in the WCPFC Convention Area....”</i> . Please confirm whether bycatches of SBT from 2000 onwards were exclusively taken in the Indian Ocean and/or were also taken in other areas such as the ICCAT or WCPFC Convention Areas.	As mentioned in the report to the ESC, catches between 2000 and 2012 referred to the Indian Ocean, where due to the geographical distribution of long-liners encounters with SBT seems more likely. Since 2013, catches refer to all oceans and progressively the EU report includes information extracted from WCPFC and ICCAT reports (EU became a member of the Extended Commission in 2015). By-catches of SBT in the WCPFC Convention Area referred in the mentioned reports were negligible (some Kg) and there were no records of its quantities.
i	2b	Q 18	Please can the EU provide documentary evidence of what are the, <i>“several mechanisms that have been put in place to help the crew identify the different tuna species, urging that all catches of SBT are recorded properly”</i> ? <sup>88</sup>	The observers are provided with handbooks, which include guides with pictures to help identifying the tuna species. The fishing vessel and observer services providers, and also the National Fishing Authorities, organize training workshops for observers on tuna identification.
i	4a	Q 19	The EU has reported that it, <i>“has not put in place a separate system specifically aimed at monitoring catches of SBT as EU legislation prohibits the targeting of SBT”</i> . Please provide documentation that demonstrates how the current level of monitoring in target fisheries in areas of SBT distribution is sufficient to detect any bycatches and/or discards of SBT?	<p>The system the EU has put in place to monitor the level of SBT fisheries is described in the EU Report under “Description of monitoring arrangements with respect to CCSBT”, which is complemented with the replies given in this questionnaire. The detection of any bycatches and/or discards of SBT is anchored on information and cross checking of data from logbooks, landing declarations and sales notes, observer reports, port and high-seas inspections, electronic observation (when available), self-sampling and port sampling (when available) and, when necessary, investigations of any evidence or clear suspicion related to a misreport or non-declared catch.</p> <p>The EU has decided to forbid EU vessels to target SBT in order to minimise potential by-catch of this species, and knowing that EU vessels fishing in Southern Hemisphere only enter intermittently (and not all of them) in the SBT distribution area, there is hardly a pressing justification to implement a dedicated system to monitor SBT encounters due to the low risk of that event. Notwithstanding, DG MARE and EU Member States are always keen to analyse and investigate any problems or infringements detected in the EU vessels related to SBT.</p> <p>In this context, we would like to highlight that the EU Surface longliners use a selective gear to target swordfish. The fishing gear operates at a 15 to 20m depth, while SBT fisheries are normally done in a higher depth. The main line used by the EU longliners has normally 3.6 mm diameter and they use wire leaders of 1.9 to 2.0 m., in opposition longline fisheries targeting SBT use much thinner main lines and do not utilize wire leaders. In addition, the bait used by EU vessels is mackerel and squid and the bait used in SBT longline fisheries is normally sardines or similar species. For these reasons, it is unlikely that EU surface longline vessels catch any SBT.</p>

<sup>88</sup> [CCSBT-CC/1310/ST Fisheries - EU – section II\(4\)b](#)

				<p>The EU is permanently trying to improve its systems to detect any by-catch of SBT and we believe that the described system is sufficient, with minimal risks, to detect the mentioned potential by-catches. To be sure about by-catches of and or discards of SBT, it would be necessary to have, at least, inspectors permanently on-board all over the fishing trips. No Members have such a system and this is not a requirement of CCSBT.</p> <p>The risk of potential misreported by-catches by the EU fleet is low and quantities are very marginal. In this regard, the specifics of the EU fleet and catches are rather distinctive in the SBT fishery. The EU situation cannot compare with other fleets that target SBT or have SBT as a significant by-catch, where the potential misreporting is important and leads to significant uncertainties in SBT mortalities due to incomplete monitoring, insufficient accounting of mortalities in farms and reporting problems in significant SBT markets.</p>
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CATCH DOCUMENTATION SYSTEM (RESOLUTION) OBLIGATIONS/MPRS QUESTIONS				
A.i-v	1-3	Q 20	<p>Is there a formal mechanism/process requiring EU Member States to provide copies of any Catch Certificates containing SBT (i.e. CCSBT CDS documents) to a central depository at DG MARE? If yes, please provide documentation that details this requirement.</p>	<p>DG MARE requests copies of any Catch Certificates containing SBF together with the CDS CatchTagging template with the quarterly request for “data provision on domestic landings, exports, imports, re-exports, farm stocking and farm transfers of SBF”. That information is centrally stored. Please also refer to the description under 5.1.2. EU Market State (trade flow of SBT) of the EU Report: “Description of monitoring arrangements with respect to CCSBT”.</p>
A.i-v	1a	Q 21	<p>Please provide copies and examples of the information and documents the EU has provided to owners and operators of EU-flagged vessels that were CCSBT-authorized any time from 2016 onwards to make those owners and operators aware of their CCSBT CDS obligations e.g. with regard to SBT tagging and CDS documentation requirements.</p>	<p>DG MARE provides relevant information and guidance to Member States related to CCSBT CDS obligations. However, the responsibility to provide information to owners and operators is in general a competence of the EU Member States. According to the principle of subsidiarity applied in the EU - decisions are kept with Member States, if Member states have the competence and the intervention of the European Union is not necessary - Members States shall provide relevant information and documents to vessel owners and operators that make them aware of their CCSBT obligations, e.g. SBT tagging and CDS documentation requirements. Members States have different ways/mechanisms to provide this information to stakeholders to make them aware of their CCSBT obligations. This could be done through circulars, publications in the official site of the relevant national authority, organised training events and dedicated workshops and through fishing authorisations.</p> <p>Given that i) since 2012 there were no recorded SBT by-catches and ii) the marginal probability of harvesting any SBT, which the EU has only a minor quota for by-catch, we have been relatively flexible on the obligation to carry permanently on-board SBT tags. It is probably disproportionate to oblige EU vessels that are forbidden to target SBT to implement this obligation. We have had some discussions on this topic in the Commission and we have to continue discussion that could lead, if necessary, to specific derogations or simplified requirements, as it is already the case of recreational fisheries that prohibit the sale of fish or in vessels where a SBT catch is unexpected.</p>

A.i-v	1b	Q 22	<p>What systems and processes are in place to ensure that any retained SBT that is landed, transhipped, exported, re-exported and/or imported SBT is accompanied by the appropriate CDS documentation. Please provide documentation demonstrating the relevant systems and processes.</p>	<p>There are no recorded catches of SBT by the EU fleet since 2012 and it is highly unlikely that SBT caught by EU longline vessels will enter the EU market. However, Member States' competent authorities shall ensure that any retained SBT that is landed, transhipped, exported, re-exported and/or imported SBT is accompanied by the appropriate CDS documentation. We are not aware of any instance in the past where SBT by-caught by the EU fleet has entered the EU market or any third country market.</p> <p>In addition, pursuant to the EU IUU Regulation (Council Regulation (EC) No 1005/2008) marine catches (fisheries products) by third country fishing vessels can only be imported into the EU if accompanied by a catch certificate validated by the catching vessel Flag State. Regulation 1010/2009 Annex V accepts the CCSBT CDS as an equivalent to the catch certificate if also accompanied by transport details.</p> <p>EU IUU Regulation requests Member States to check the EU catch certificate or its accepted equivalent (e.g. CCSBT CD) prior to accepting the import (Art. 16 and 17). Each year consignments that do not comply with the requirements laid down in the IUU Regulation are denied import in the EU, pursuant to Art. 18 of the IUU Reg.</p> <p>For SBT caught by EU vessels and directly shipped to the EU no catch certificate is required, but general CCSBT CDS rules apply (see also reply to questions 21 and 31).</p>
A.ii	1bii	Q 23	<p>What checks has the EU done between 2016 to 2019 inclusive to ensure that any SBT product imported into the EU has not subsequently been re-exported without appropriate CCSBT CDS documentation accompanying the SBT? Please provide documentation that illustrates any checks that were completed.</p>	<p>SBT imports are very marginal and do not occur every year in the EU. These imports when happening are limited to dozens of Kg of SBT, namely for consumption or processing and therefore the probability to have exports/re-exports of SBT subjected to CDS is near nil. The competence to apply the Regulations in force with regard to SBT imports/re-exports and to perform and document the necessary checks is a responsibility of national authorities (in general customs). There are no documentation that can be provided concerning checks made by those authorities. However, DG MARE requests copies of any catch certificates containing SBF together with the CDS Catch Tagging template with the quarterly request for "data provision on domestic landings, exports, imports, re-exports, farm stocking and farm transfers of SBF".</p> <p>We recognise that there have been some concrete instances regarding the obligation to implement the CDS system, which is understandable due to the rarity of SBT imports in the EU market. However, when that has been the case we have made sure that the proper follow-up was ensured. As an example, in the last few years, DG MARE was informed by the secretariat and by another Member about two minor imports of SBT in the EU market that were not detected. Following exchanges with the secretariat and with</p>

				relevant authorities in Member States, CDS certificates were retrieved and completed. CDS certificates are however, compatible and contain the main requirements that are also part of the EU IUU CDS certificates. We will continue to work with the Secretariat and the Extended Commission to find practical arrangements to solve any possible difficulties.
A.i, v D.xix	1c, 1e  1c, 1d	Q 24	How has the EU ensured that any longliners catching and retaining SBT or any importers receiving or potentially re-exporting SBT are aware of and appropriately implement the CCSBT's <u>certification</u> requirements for CDS documents (for CMFs, CTFs, REEFs) e.g. what documentation on the CCSBT's CDS <u>certification</u> requirements has the EU provided to its longliners, importers, processors, etc? Please provide copies of the relevant documentation. How does the EU verify this certification process is implemented correctly? Please provide documentation illustrating how certifications are verified.	The mechanisms that the EU has to ensure that all Member States are informed and should apply and comply with all CCSBT Conservation and Management Measures are described in the responses to the questions 2 and 21. In fact, DG MARE/European Commission provides the legal basis and provisions to the national authorities to carry out the legally required checks. In addition, DG MARE/European Commission provides guidance in individual cases on request and implements the quarterly reporting of imports/re-exports of SBT based on Member States reports and the monthly catch reporting based on the official Aggregated Catch Data Reporting (ACDR) catch reporting. The correct application of the law in force is the competence of the national authorities and to a large extent the EU has to rely on this. Notwithstanding, pursuant to Regulation (EC) No 2008/1005, article 55.1 (IUU Regulation), Member States must report every two years on their application of the IUU Regulation. The analysis of these biennial reports is used to detect potential weaknesses and feed dedicated trainings by the European Fisheries Control Agency, as well as specific meetings with the Member States. Where relevant the European Commission can also perform visits or audits to the Member States.
A.iv	3	Q 25	It is possible that EU longliners may bycatch SBT from 2020 onwards. Please describe and provide documentation of the processes the EU/its Member States have in place to issue uniquely numbered CCSBT CDS documents should any Member State bycatch SBT from 2020 onwards.	This question is based on an unlikely hypothetical case in view of the recorded SBT catches in the last 8 years. We should consider to continue discussions in the ESC and EC to find practical arrangements to solve any remaining doubts regarding CDS documents.
A.i-v	1, 3	Q 26	What systems and process(es) do/does the EU/EU Member States have in place to ensure that copies of CCSBT CDS import documents will be completed fully (import section) including appropriately certified? Please describe and provide documentation illustrating the systems and processes in place.	: Again, the SBT imports are very marginal and do not occur every year in the EU. The competence to apply the Regulations in force with regard to SBT imports/re-exports and to perform and document the necessary checks is a responsibility of national custom authorities. There are no documentation that can be provided concerning checks made by those authorities. However, DG MARE has in place the process described in the reply to question 20 and requests copies to Member States of any Catch Certificates containing SBF together with the CDS Catch Tagging template with the quarterly request for "data provision on domestic landings, exports, imports, re-exports, farm stocking and farm transfers of SBF".

				<p>Moreover, EU catch certificates (or their accepted equivalent) have to be validated upon acceptance of the import into the EU (section 12 of the EU catch certificate, IUU Reg. Annex II). Catch certificates that do not contain all the required information, the import shall be refused into the EU (IUU Reg., Art. 18.d).</p> <p>We repeat that there have been some rare incidents regarding the implementation the CDS system, which is understandable due to the rarity of SBT imports in the EU market and have to work with the Secretariat and the Extended Commission to find practical arrangements to solve these difficulties.</p>
A.vi	1, 2	Q 27	<p>Transshipment operations are an area of increased compliance risk. With reference to CDS obligation 3.1A.vi (MPRs 1 and 2), please could the EU confirm which, if any, of the following longline fleets (that may operate south of 30°S) may make at-sea transshipments of fish if appropriate transshipment authorisations have been given:</p> <ul style="list-style-type: none"> <li>i) Portuguese,</li> <li>ii) Spanish,</li> <li>iii) UK.</li> </ul>	<p>The referred EU longliners do not transship at sea and authorisations to transship at sea have not been given to any of these vessels. Moreover, the EU does not participate in any of the at sea transshipment programmes or schemes existing in Tuna RFMOs.</p>
A.vi	1, 2	Q 28	<p>What systems and processes does the EU have in place to manage the compliance risks associated with at-sea transshipments? For example, relevant systems/processes could include port inspections (including genetic testing) or VMS and/or AIS monitoring of relevant longline and carrier vessel activity. Please describe and provide documentation illustrating the systems and processes in place.</p>	<p>This is not relevant for the EU. EU vessels do not transship at sea and have not been authorized to transship outside ports.</p> <p>In addition, in line with Article 30 of Regulation (EU) 2403/2017 a Flag Member State is obliged to assess the consistency of the data received in accordance to Article 109 of Regulation (EC) 1224/2009 which obliges Member States to perform cross-checking, analyses and verifications of data through automated computerised algorithms and mechanisms and, in particular:</p> <ul style="list-style-type: none"> <li>(i) vessel monitoring system data;</li> <li>(ii) fishing activities data, in particular the fishing logbook, the landing declaration, the transshipment declaration and prior notification;</li> <li>(iii) data from take-over declarations, transport documents and sales notes;</li> <li>(iv) data from fishing licences and fishing authorisations;</li> <li>(v) data from inspection reports;</li> </ul>
A.vi	2a	Q 29	<p>If a non-CCSBT-authorized EU longliner bycatches SBT (e.g. any Spanish longliner in 2018, 2019 or to date in 2020, or any Portuguese longliner in 2019 or to date in 2020 – none of these were CCSBT-authorized<sup>89</sup>), that SBT is prohibited from being landed, transhipped, imported, exported or re-exported. What is the EU's</p>	<p>This is an improbable academic question. Ship-owners and masters willing to have their fishing vessels operating in the SBT distribution area have their respective vessels CCSBT authorised. In fact, there is no reason that ship-owners do not request a CCSBT vessel registration if there is an</p>

<sup>89</sup> Since these questions were sent and responded to, the Review Team notes that the following corrections and updates apply: i) correction - both Portuguese and Spanish longliners were retrospectively CCSBT-authorized for 2019 during March/April 2019, and ii) update - Portuguese and Spanish longliners were retrospectively CCSBT-authorized back to 1 Jan 2020 on 14/09/2020. Therefore, it is now only Spanish longliners during 2018 that weren't CCSBT-authorized.

		<p>current policy about what must happen operationally with any such SBT? Please clarify and provide the relevant paragraphs from any appropriate document(s) describing the relevant policy.</p>	<p>intention to enter in the mentioned area. This has been discussed and emphasised with Member States in the last few years and, consequently, the list of EU vessels has been extended to integrate all vessels risking entering in the SBT distribution area, and the list of EU authorised vessels will be updated, whenever necessary.</p> <p>The paragraph 2 of the Resolution on a CCSBT Record of Vessels Authorised to Fish for Southern Bluefin Tuna states that 2. The Extended Commission shall establish and maintain an CCSBT Record of fishing vessels (hereinafter referred to as "fishing vessels" or "FVs") authorised to fish for SBT. For the purpose of this recommendation, FVs not entered into the Record are deemed not to be authorised to fish for, retain on board, tranship or land SBT regardless of their size.</p> <p>This means that any EU vessel not entered in the Record would not be authorized to retain SBT on board, which is in line with article 20 of the SMEFF Regulation 2017/2403 that states:</p> <p>A Union fishing vessel the fishing operations of which are subject to an authorisation regime adopted by the RFMO shall not carry out fishing operations under the auspices of the RFMO unless:</p> <ul style="list-style-type: none"> <li>(a) the Union is a contracting party to the RFMO;</li> <li>(b) it has been issued with a fishing authorisation by its flag Member State;</li> <li>(c) it has been included in the relevant register or list of authorised vessels of the RFMO; and</li> <li>(d) where the fishing operations are carried out in third-country waters, it has been issued with a fishing authorisation by the relevant third country in accordance with Chapter II.</li> </ul> <p>In conclusion, in the unlikely event, that a non CCSBT-authorized vessel enters in the SBT distribution area, catch, land and/or tranship any SBT this would be a breach of the rules that apply to all EU fishing vessel and therefore it would be treated as an infringement of the Common Fisheries Policy rules by the competent authorities.</p>
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C.x-xii C.xiii-xviii	1a-e 1a-f	Q 30	<p>Does the EU now have in place systems and processes to:</p> <ul style="list-style-type: none"> <li>i) tag any retained by-caught ‘whole’ SBT appropriately either at the time of kill or as an exceptional circumstance no later than the time of landing, transshipment or export as appropriate,</li> <li>ii) report any exceptional tagging circumstances within 7 days of landing,</li> <li>iii) ensure that a CTF is filled out as soon as practicable after the time of kill of the SBT, and</li> <li>iv) ensure all tags used meet the minimum standards set out in Appendix 2 of the CDS Resolution.</li> </ul> <p>If yes, please provide documentation illustrating what the relevant systems and processes are, e.g. provide photos of any EU tags to be used for SBT and provide copies of any tagging requirements/instructions made available to EU longliners that fish within the area of SBT distribution.</p>	<p>The EU took a conscious policy decision not to allow EU vessels to target SBT, notably to minimize encounters with SBT. In fact, EU surface longliners entering in the SBT area, use different gear, fish in diverse depths and use diverse baits that the longliners fishing SBT. As fisheries managers, there is always a risk assessment to be made in terms of priorities, obligations and available resources. Taking into account the absence of reported SBT by-catches since 2013, the obligation to carry on-board tags in EU vessels is not a priority in view of the fact SBT catches are unlikely and unexpected and that there are no SBT by-catches reported since 2013. Also from a systemic perspective and the more efficient use of the SBT tags, their primary users should be fleets that have regular SBT catches.</p> <p>As pointed out, the specificities of the EU fisheries (see reply to the question 21) are not fully taken into account in the CCSBT CDS requirements. There were already some discussions on this topic and probably practical arrangements should be considered to better adapt the requirement of the CCSBT CDS system to the characteristics of the EU fisheries .</p>
C.x-xii C.xiii-xviii	1a-e 1a-f	Q 31	<p>At CC13 in 2018, the EU referred to the following difficulties, e.g. re. carrying valid CCSBT tags:</p> <p><i>“41. The European Union advised that it had some concerns with the CDS due to it not catching SBT and having no SBT imports with some minor exceptions. Because of its rare dealings with SBT, it is difficult for its fishers to comply with the CDS (e.g. by carrying valid tags) and there is a potential for masters to misreport SBT to avoid the difficulties involved in reporting SBT.”</i></p> <p>Given the comment made by the EU at CC13, what is the EU doing to lessen the potential of misreporting by EU vessel (longline) masters who may take SBT as a bycatch e.g. is the EU making available tags as well as information on how to comply with the CCSBT’s CDS? Please provide relevant documentation.</p>	<p>This subject has already been responded in or reply to other questions, namely 8, 21 and 29. DG MARE met and/or contacted Member States, recently and in several occasions, to debate CCSBT matters where we insisted on reporting obligations and double-checking of any potential SBT by-catches.</p>
C.xiii-xviii	2a	Q 32	<p>Does the EU have monitoring in place to ensure that any retained by-caught ‘whole’ SBT are tagged as described in Q30 above? If yes, please provide documentation that describes the monitoring processes that are in place to ensure all retained ‘whole’ SBT are tagged and to prevent untagged ‘whole’ SBT from being landed, transhipped, exported, imported or re-exported.</p>	<p>Considerations on tagging have been developed in previous replies, namely to questions 21 and 30, where we highlighted i) the improbability to catch SBT and then to land, transship or export/import/re-exported it, and consequently ii) it is not a priority to oblige EU vessels to carry on-board tags. We understand the obligations related tagging but we believe that there is no obligation to have a dedicated monitoring system in place, particularly when SBT by-catches are unexpected.</p>
C.xiii-xviii	2b	Q 33	<p>What systems and processes are in place to impose sanctions on operators in cases where tagging procedures are not complied with? Please provide documentation for each relevant Member State (at least Portugal, Spain and the UK) describing those systems and processes.</p>	<p>According to EU law, The Common Fisheries Policy and the EU Regulations apply directly and are considered as part of the domestic laws of EU Member States.</p>

				<p>In line with Article 21 of the SMEFF Regulation (EU) 2017/2403, a flag Member State may issue a fishing authorisation only if the rules laid down by the RFMO or the transposing Union law are complied with. If an operator does not comply with the rules of the RFMO, Member States are entitled not to grant or renew the authorisation. Moreover, if an operator does not comply with rules of an RFMO, this creates an infringement, which is liable to a sanction under the Title VIII of the Control Regulation (EC) No 2009/1224. This is in line with Article 7 of the SMEFF Regulation, which provides rules for the management of fishing authorisations and in particular the following:</p> <p>3. A flag Member State shall on a regular basis monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.</p> <p>4. If, as a result of the final outcome of the monitoring activities referred to in paragraph 3, there is evidence that the conditions on the basis of which a fishing authorisation has been issued are no longer met, the flag Member State shall take appropriate action, including amending or withdrawing the authorisation and, if necessary, imposing sanctions. The sanctions applied by the flag Member State in respect of infringements shall be sufficiently stringent to ensure effective compliance with the rules, to prevent infringements and to deprive offenders of the benefits derived from infringements. The flag Member State shall immediately notify the operator and the Commission thereof. Where relevant, the Commission shall notify the secretariat of the RFMO or the third country concerned accordingly.</p>
D.xix-xxi	1	Q 34	<p>Paragraph 3.1.3 of the CDS Resolution defines the CMF as:  <i>“3.1.3 Catch Monitoring Form – records information on the catch, landing, transshipment, export, and import of all SBT regardless of whether farmed or not, including unexpected catch.”</i></p> <p>In the event that the EU by-catches SBT unexpectedly, a CMF and associated CTF will need to be completed and each CMF/CTF will need to be submitted to the CCSBT Secretariat.</p> <p>Please provide details about what processes the EU has in place to ensure that any SBT taken as unexpected bycatch will be recorded and validated on CCSBT’s CMFs (plus potentially also REEFs) by appropriately authorised CDS validators, for example by Portuguese, Spanish or UK validators (or centralised EU validators)?</p>	<p>This is the same situation as the one described to tagging. The EU took the decision forbid its vessels to target SBT to minimise encounters with SBT. Considering, that there were no reported SBT by-catches since 2012, the probability to by-catch any SBT is very low and there is no recorded SBT sales (SBT not entering in the market), we have to continue discussions in order to adjust the Catch Documentation Scheme to the specific situation of the EU fisheries.</p> <p>As mentioned above in relation to the tagging, the EU together with the Extended Commission in coordination with the Secretariat have to consider the adoption of specific derogations or simplified requirements for the CDS obligations applicable to atypical fishing fleets like the EU, as it is already the case of recreational fisheries that prohibit the sale of fish.</p>

D.xix-xxi	1bii	Q 35	<p>With reference to MPR 1.b.ii. of the validation obligations, please can the EU provide documentation to demonstrate that the authorised Danish validators listed on the CCSBT website are aware of their CCSBT validation responsibilities, <i>i.e.</i>:</p> <ul style="list-style-type: none"> <li>i. are aware of their responsibilities, including inspection, monitoring and reporting requirements</li> <li>ii. are aware of penalties applicable should their validation authority be mis-used?</li> </ul>	<p>In the replies to the questions 2 and 21 you can find the explanation of the mechanisms the EU has to make responsible authorities in Member States aware of the CCSBT legislation and their related responsibilities. According to the principle of subsidiarity applied in the EU, decisions are kept with Member States, if Member States have the competence and the intervention of the European Union is not necessary. Certainly Danish authorities are aware of their responsibilities to check that foreign fish imported into the EU is accompanied by a catch certificate or its accepted equivalent. Failure to discharge this obligation could result in action by the European Commission in case the failure is a systemic one, or by the Danish Government if reference is made to individual misbehavior. The same applies to all other EU Member States. We are not aware of any instances in the past where EU validators were not aware of the applicable rules in place.</p>
D.xix-xxi	2	Q 36	<p>What systems and processes does the EU have in place to ensure the compliance and effectiveness of the CCSBT-authorized Danish validators and any other validators it may authorise? Please describe and provide documentation illustrating the systems and processes that are in place.</p>	<p>This relates to the functioning of the EU and the relations between the EU institutions and EU Member States that largely surpass the mandate of this QAR. It has been described in the replies to this questionnaire the existing legislation and mechanisms to make Member States aware of the CCSBT legislation and related obligations, as well as and relevant mechanisms and procedures in place to ensure the application of the Common Fisheries Policy and CCSBT rules.</p>
D.xxii-xxv	1,2	Q 37	<p>What systems and processes does the EU have in place to ensure that any EU authorised validators are aware of CCSBT's CDS validation requirements set out in paragraphs 5.5, 5.6, 5.7 and 5.8 of the CDS Resolution (as described in the MPR document by CDS Obligations D. xxii – xxv on Validation)? Please describe and provide documentation illustrating the systems and processes that are in place.</p>	<p>The question on the awareness of the EU authorised validators has been already replied in the question 35. You find also complementary elements and legislation in force in previous replies, notably to questions 22, 24, 26 and 39. We should highlight that any SBT imports cannot enter in the EU market without a certificate (CCSBT CDS is an equivalent to the EU Catch Certificate). In addition, Member States that reject consignments lacking proper or comprehensive information must pass this information to DG MARE and to the Flag State.</p>
D.xxii-xxv	1, 2a	Q 38	<p>What documentation has the EU provided to its Member States to ensure that they are aware that SBT imports should not be accepted unless accompanied by CCSBT CDS forms that have been appropriately validated, are complete, do not include deficiencies or discrepancies and where the SBT originate from authorised farms or vessels and that all 'whole' SBT are tagged appropriately? Please provide copies of this documentation.</p>	<p>DG MARE provides documentation to Member States as described in replies to the questions 1 and 21. In addition, information and documents received from the secretariat are also transmitted to the relevant services in Member States, normally by email and all other relevant information is publicly available on the CCSBT website.</p>

D.xxii-xxv	2b	Q 39	Do EU Member States notify any issues they identify with regard to imports of SBT such as SBT imports not being accompanied by appropriate CCSBT CDS documentation or the documentation being incomplete, including discrepancies or not validated, etc, to their own domestic and/or to DG MARE's enforcement authorities? What is the currently established process for any such notifications – please describe the process and provide relevant documentation?	Fish imports without a CDS cannot enter in the EU market (see also reply to question 22). EU Member States that reject consignments lacking proper or comprehensive information must pass this information to DG MARE and to the Flag State (IUU Regulation (EC) No 2008/1005, Art. 18.5). This is usually done electronically and sent to the other Member States.
E.xxvii	1	Q 40	To date, since the commencement of the CCSBT CDS in 2010, the EU has only submitted 4 <sup>90</sup> (in 2015, 2016 and 2017) out of 180 <sup>91</sup> expected import CDS forms to the CCSBT Secretariat. None of these 4 <sup>90</sup> CDS forms were submitted within the required quarterly timeframe. Since the current arrangements do not appear to be effective, has the EU improved its existing systems and processes (or does it have plans to) to ensure that it submits all CCSBT CDS documents (in particular for SBT imports) to the Secretariat within the required quarterly timeframe in future? If so, how has the EU improved the existing systems and processes to ensure that these forms are identified and submitted without assistance from the Secretariat? Please provide relevant documentation.	If the secretariat is in possession of evidence concerning the mentioned 180 <sup>91</sup> expected import CDS forms, DG MARE would like to be informed about these consignments, to investigate these cases and address potential problems with the implementation of the Catch Documentation Scheme. Following the last case where imports had not been properly reported by a Member State, DG MARE has increased the awareness of Member States' authorities on completeness and timeliness of the quarterly reporting. We send regular data reminders stressing the importance to check and report properly. Apart from awareness raising with Member States, we have no plans to employ additional resources to increase the number of nil reports and empty forms. In view of the very rare cases and marginal quantities of any imports of SBT into the EU, the system in place appears to be well justified and sufficiently effective.
F.xxix - xxxiv	1, 2	Q 41	What processes does the EU/its Member States use to appropriately <u>verify</u> the SBT recorded on CDS import documents? Please provide any documentation detailing these verification processes e.g. copies of any CCSBT CDS information that has been provided to EU Member States that describe how to appropriately <u>verify</u> SBT imports/ catches and CCSBT CDS documents including checking the completeness of data on the forms, comparing the data to the shipment and investigating any irregularities, etc.	In DG MARE there is no dedicated mechanism to verify the SBT recorded on CDS import documents. We rely on the information provided by Member States that according to the subsidiarity principle have a competence on this verification. Furthermore, EU IUU Regulation requests Member States to check the EU catch certificate or its accepted equivalent (e.g. CCSBT CD) prior to accepting the import (Art. 16 and 17) and consignments that do not comply with the requirements laid down in the IUU Regulation are denied import in the EU, pursuant to Art. 18 of the IUU Reg. In addition, according to the IUU Regulation, article 55.1, Member States must report every two years on their application of this Regulation and the analysis of these biennial reports is used to detect potential weaknesses and feed dedicated trainings by the European Fisheries Control Agency, as well as specific meetings with the Member States. Where relevant the European Commission can also perform visits or audits to the Member States.

<sup>90</sup> At the time this questionnaire was sent to the EU, only 4 import CDS forms had been submitted by the EU, however a 5<sup>th</sup> import form was subsequently submitted on September 2020

<sup>91</sup> The Secretariat carried out extra data checks on historical data associated with Indonesian exports and determined that there were 4 data entry errors that had incorrectly noted export destinations as the UK when they should have been to the USA. Therefore, question 40 should have referred to 176 expected import CDS forms rather than 180 import CDS forms

F.xxix - xxxiv	2a	Q 42	<p>With regard to CDS obligations xxix to xxxi, MPR 2a:  <i>Operating systems and processes established and implemented for verification, including:</i>  <i>a. selecting and inspecting, where appropriate, a targeted sample of vessels and export, import and market establishments based on risk. The intent of these inspections should be to provide confidence that the provisions of the CDS are being complied with;</i></p> <p>Does the EU have a targeted inspection programme of longliners that have fished in the SBT distribution area and/ import facilities based on risk that provides confidence that potential SBT catches/imports are being recorded and not being misidentified as other tuna species (e.g. by genetic testing), and that importers are complying with CCSBT's CDS document requirements?  If yes, please describe and provide documentation that illustrates the systems and processes that are in place.</p>	<p>Verifications on imports are carried out in line with Article 17 of Regulation (EC) 2008/1005 (IUU Regulation). These verifications are focused towards risks identified on the basis of the Community criteria identified in Article 31 of Regulation (EC) 2009/1010 (Implementation Rules) and include verifications, when necessary, in the longlines fishing in the SBT distribution area.</p> <p>However, taking into account that there are no reported catches of SBT since 2012 and based on past experiences showing that the probability of any future SBT accidental by-catch is negligible no targeted inspections are deemed necessary.</p>
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## Additional Documents Submitted by the EU in Response to the QAR Questionnaire

In addition to its QAR questionnaire responses, the EU provided another 7 documents to the QAR Review Team, one of these being an email with the CDS Tagging Data Template attached.

The additional documents the EU submitted relevant to QAR question 18 were:

- 1) Atuns\_ChavelPMA.pdf;  
- Species ID guide from IPMA, Portugal (in Portuguese)
- 2) IEO\_Manual de ayuda para la identificacion de especies del genero THUNNUS - FINAL rev julio\_2010.pdf;  
- Spanish Institute of Oceanography, manual to assist with the identification of species of the Genus *Thunnus*
- 3) GUIA\_IDENTIFICAÇÃO\_DOS\_ATUNS\_DO\_ATLÂNTICO\_2008.pdf;  
Species guide to Atlantic tunas, DPA, Portugal (in Portuguese)
- 4) PalangreNormal-formularios-y-manual (7).pdf;  
- Field manual for longline observers (in Spanish)
- 5) ANEXO PTP ATLANTICO SUR.docx.  
- Spanish Directorate-General for Fisheries Management & Aquaculture– Example Surface Longline Permit/authorisation for international waters of the S. Atlantic Ocean (Spanish).

The documents the EU submitted relevant to QAR questions 20, 21 and 24 were:

- 6) FW Ares(2018)3151735 - CCSBT CDS Data Reminder Data for the period 1-Jan-2018 to 31-Mar-2018.msg;  
- CDS data reminder to EU Members sent in 2020
- 7) Ares(2020)1356818 - CCSBT CDS Data Reminder (Southern Bluefin Tuna) Data for the period 1-Sep-2019 to 31-Dec-2019.msg (including CCSBT\_CDS\_CatchTagging\_Template.xls)  
- CDS data reminder to EU Members sent in 2018 including information about relevant SBT commodity codes.

## Additional Nine Potentially Pertinent Documents Submitted by the EU (on 29/01/21) in Response to Receipt of the Draft QAR

### Port Inspection Reports<sup>92</sup>:

- 8) Mauritian port inspection report for Spanish longliner 'Coyo Septimo' (03/06/2019)
- 9) Mauritian port inspection report for Spanish longliner 'Coyo Tercero' (05/08/2019)
- 10) Mauritian port inspection report for Spanish longliner 'Coyo Tercero' (28/10/2019)
- 11) Panamanian port inspection report for Spanish longliner 'Puntal de Aguete' (05/08/2019)
- 12) Panamanian port inspection report for Spanish longliner 'Runo' (18/08/2019)
- 13) Panamanian port inspection report for Spanish longliner 'Novo Xeixal' (23/09/2019)

### Other Miscellaneous Additional Documents:

- 14) Council Regulation (EC) No. 1005/2008 of 29 September 2008 Notification of Competent Authorities (2020): Article 5 – List of Designated Ports and Authorities
- 15) Species list for Portugal's electronic fishing log (spreadsheet)
- 16) A list of active Spanish validators for the eBCD and Spanish Validators certified until 15/04/2021 (spreadsheet)

Copies of these documents are available from the Review Team upon request.

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<sup>92</sup> The EU provided 4 additional documents, 3 port inspection reports and 1 port entry request to the Review Team. Because these documents were for vessels that either had no fish on board or had not fished within the SBT distribution area they are not included in this list of additional potentially pertinent documents.

## APPENDIX F

# Annual EU Fishing Opportunities Regulation

Excerpts from the EU Fishing Opportunities Regulation:

**COUNCIL REGULATION (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters**

30.1.2020

EN

Official Journal of the European Union

L 25/1

## II

(Non-legislative acts)

## REGULATIONS

**COUNCIL REGULATION (EU) 2020/123**

**of 27 January 2020**

**fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

.....

- (44) At its annual meeting in 2019, the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) confirmed the TAC for the southern bluefin tuna for the period 2018–2020 adopted at the annual meeting in 2016. Those measures should be implemented in Union law.

.....

30.1.2020

EN

Official Journal of the European Union

L 25/123

## ANNEX IF

### SOUTHERN BLUEFIN TUNA – AREAS OF DISTRIBUTION

<b>Species:</b>	Southern bluefin tuna <i>Thunnus maccoyii</i>	<b>Zone:</b>	All areas of distribution (SBF/F41-81)
Union	11 <sup>(1)</sup>	Analytical TAC	
		Article 3 of Regulation (EC) No 847/96 shall not apply	
		Article 4 of Regulation (EC) No 847/96 shall not apply	
TAC	17 647		

<sup>(1)</sup> Exclusively for by-catches. No directed fisheries are permitted under this quota.

## APPENDIX G

### EU Landing Obligation

#### 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

#### *Article 15*

#### **Landing obligation**

1. All catches of species which are subject to catch limits and, in the Mediterranean, also catches of species which are subject to minimum sizes as defined in Annex III to Regulation (EC) No 1967/2006, caught during fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' sovereignty or jurisdiction, in the fisheries and geographical areas listed below shall be brought and retained on board the fishing vessels, recorded, landed and counted against the quotas where applicable, except when used as live bait, in accordance with the following time-frames:

(a) From 1 January 2015 at the latest:

- small pelagic fisheries (i.e. fisheries for mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine, sprat);
- large pelagic fisheries (i.e. fisheries for bluefin tuna, swordfish, albacore tuna, bigeye tuna, blue and white marlin);

## APPENDIX H

### Scientific Observer Coverage in the IOTC Area of Competence

Note: A written summary of the tables for Portugal, Spain and the UK is provided below the three tables.

**Portugal** Scientific observer programme commenced in 2011

Year	No. Active Longliners in the IOTC Area	Total no. Hooks Deployed	No. Hooks Observed	Observer Coverage (Hooks - %)	Area of Scientific Observation (IOTC Report)	Additional Information
2010	4	780,000	Unknown		No observer programme	None
2011	4	904,000	Unknown	17.90%	No report found for 2011	None
2012	3	689,000	Unknown	10.70%	Map provided - only a very small proportion of observed sets are below 30°S <sup>93</sup>	Observer was on board 1 FV for 71 days, covering a total of 56 pelagic longline sets
2013	7	1,558,000	Unknown	11.00%	Map provided – about 50% of observed sets appear to be below 30°S <sup>93</sup>	Observers on board 2 FVs for 159 days, covering a total of 130 pelagic longline sets
2014	7	978,000	Unknown	7.30%	Map provided - the majority of observed sets appear to be north of 30°S	Observers on board 1 FV for 61 days, covering 49 sets
2015	6	1,415,000	Unknown	11.10%	Map provided - more than 50% of the observed sets appear to be below 30°S	Observers on board 1 FV for 135 days, covering 107 sets
2016	6	1,699,000	Unknown	9.10%	Map provided - less than 50% of the observer sets appear to be below 30°S	Observers on board 1 FV for 138 days, covering 103 sets
2017	6	1,618,000	Unknown	7.90%	Map provided - the majority of observed sets appear to be below 30°S	Observers on board 1 FV for 116 days, covering 98 sets
2018	3	893,000	Unknown	15.50%	Map provided - more than 50% of the observed sets appear to be below 30°S	Observers on board 1 FV for 134 days, covering 116 sets
				<b>AVERAGE (hooks observed):</b>	<b>11.31%</b>	

<sup>93</sup> The maps provided for 2012 and 2013 in the IOTC reports were the same; in its response to QAR Q 11, the EU provided the correct map for 2013

**Spain** Scientific observer programme commenced in 1993

Year	No. Active Longliners in the IOTC Area	Total no. Hooks Deployed	No. Hooks Observed	Nominal Effort Coverage (hooks)	Area of Scientific Observation (IOTC Report)	Comments
2010	12	3,174,000	106,619	3.36%	Outline map provided - shows an unquantified proportion of observer coverage occurred both north and south of 30°S	
2011	14	3,758,000	63,139	1.68%	No report found for 2011	
2012	18	4,674,000	7,451	0.16%	Outline map provided - shows an unquantified proportion of observer coverage occurred both north and south of 30°S	
2013	22	6,263,000	180,921	2.89%	Outline map provided - shows an unquantified proportion of observer coverage occurred both north and south of 30°S	
2014	21	6,107,000	70,750	1.16%	Outline map provided - shows an unquantified proportion of observer coverage occurred both north and south of 30°S	
2015	18	4,509,000	45,732	1.01%	Between 25°-30°S and 40°E (p38) <sup>94</sup>	There appear to have been no hooks observed below 30°S from 2015 onwards, although the map provided for 2015 seems to show a rectangular area of observation stretching both above and below 30°S, whereas the report text notes that observations occurred between 25°-30°S and 40°E
2016	13	4,427,000	105,918	2.39%	Map provided - observed sets occurred between approx 23-28°S and 68-79°E, i.e. none below 30°S	
2017	14	3,579,000	59,890	1.67%	Between 20°S-25°S and 60°E-70°E (no map of observed sets available)	
2018	11	2,822,000	33,160	1.18%	Between 25°S-30°S and 35°E-60°E (no map of observed sets available)	
		<b>AVERAGE (hooks observed):</b>		<b>1.72%</b>		

<sup>94</sup> However, the rectangle on the map showing the spatial distribution of observer coverage goes below 30°S (p42)

**UK** Scientific observer programme commenced in July 2017

Year	No. Active Longliners in the IOTC Area	Total Effort: No. hooks x No. sets x days fished	Percentage of Fishing Days Observer Present	Area of Scientific Observation (IOTC Report)	Additional Information	Comments
2010	3	566,000		No observer programme	None	
2011	3	690,800		No observer programme	None	
2012	3	577,900		No observer programme	None	
2013	2	502,700		No observer programme	None	
2014	2	579,700		No observer programme	None	
2015	2	388,300		No observer programme	None	
2016	1	271,700		No observer programme	None	
2017	2	500,300	Unknown	Unknown	1 active observer (routine sampling started in July 2017)	CCSBT 2019 ESC report: "An observer programme has been implemented for UK vessels since July 2017. More than 10% of the fishing trips have been covered by observers in the first year of the observer programme". It's not completely clear whether this comment refers to the 2017 calendar year.
2018	2	Unknown	Just over 11% of fishing days	Map provided - a lot of observer hours were below 30°S	1 active observer	

## Summary of EU Scientific Observer Coverage of Longline Fleets: Indian Ocean

The IOTC (Resolution 11/04) requires that: *“In order to improve the collection of scientific data, at least 5 % of the number of operations/sets for each gear type by the fleet of each CPC while fishing in the IOTC area of competence of 24 meters overall length and over, and under 24 meters if they fish outside their Exclusive Economic Zone (EEZ) shall be covered by this observer scheme. For vessels under 24 meters if they fish outside their EEZ, the above mentioned coverage should be achieved progressively by January 2013.”*

The EU has three active longline fleets fishing within the IOTC Area of Competence – a Spanish fleet which is the largest longline fleet with the associated highest levels of effort, followed by the Portuguese fleet with the next highest number of active vessels and overall effort, and a small UK fleet.

### Portuguese Fleet

The Portuguese fleet has had between 3-7 longliners actively fishing within the IOTC Area of Competence between 2010 to 2018 inclusive and Portugal’s observer programme has been in place since 2011. The number of hooks observed since 2011 range between a low of 7.3% in 2014 and a high of 17.9% in 2011, with on average 11.31% of hooks being observed over this period. It has also regularly had observer coverage of sets south of 30°S, but usually for a single vessel only, except in 2013. Note that in its response to QAR Q 11 about maps showing Portuguese scientific observer coverage in the IOTC Area, the EU stated that:

*“Both maps reflect the fishing activities covered by observers. They do not include self-sampling coverage that is also undertaken by the crew trained by scientific observers.”*

### Spanish Fleet

The Spanish fleet has consisted of between 11 – 22 active longliners fishing in the IOTC Area of Competence between 2010 to 2018 inclusive. Spain’s observer programme commenced in 1993. Between 2010 to 2018 inclusive the percentage of hooks observed ranged from a low of 0.16% (over 18 vessels) in 2012 to a high of 3.36% (over 12 vessels) in 2010. There appear to have been no observed longline sets South of 30°S from 2015 onwards<sup>94</sup>, during which time 11 – 18 Spanish-flagged vessels actively fishing within the IOTC Area of Competence.

### UK Fleet

The UK fleet has been the smallest of the EU’s longliner fleets fishing within the IOTC Area of Competence, with 1 – 3 UK longliners actively fishing within the Area between 2010 to 2018 inclusive. There was no observer coverage of this fleet prior to July 2017, with 2018 being the first full year of observer coverage. For 2018 it is estimated that just over 11% of fishing days were observed.

## APPENDIX I

### Scientific Observer Coverage in Longline Fleets in the ICCAT Convention Area

ICCAT requires a minimum of 5% scientific observer coverage of fishing effort in pelagic longline fisheries.

#### *Information Reported for the 2018 Calendar Year*

In the EU's 2019 annual report to the ESC95 it reported the following information for the 2018 calendar year:

*“There were 37 EU longliners (29 from Spain and 8 from Portugal) operating in the ICCAT (South Atlantic) area mainly operating outside the SBT distribution area but intermittently entering in the latitude southern to 30°S where SBT encounters could occur. However, no SBT by-catch has been reported by masters and observers (pp2, 14).*

.....

#### **Spanish Fleet**

*The total observed effort on board the Spanish longline fisheries reached 15% in all ICCAT area in 2018, as required by the ICCAT (p20).*

#### **Portuguese fleet**

*The total observed effort on board the Portuguese longline fisheries was 7% in all ICCAT area in 2018 (about 5% in South Atlantic)” (p20).*

#### *Information Reported for the 2017 Calendar Year*

The EU's 2018 annual report to the ESC<sup>96</sup> (which generally reports information on the 2017 calendar year) reports that (p2):

*“In 2017, 23 Spanish longliners were active in Southern Atlantic but mainly operating outside the SBT distribution area (North of 30°S). There were also 3 Longliners from Portugal with some fishing trips entering the zone where encounters with SBT could occur.”*

The Review Team could not find any specific information on the EU's overall level of observer coverage in the ICCAT Area in 2017 (in particular the South Atlantic) in the same report.

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<sup>95</sup> Pp 2, 14 and 20, [CCSBT-ESC/1909/SBT Fisheries – European Union](#)

<sup>96</sup> Pp 2 and 11, [CCSBT-ESC/1809/SBT Fisheries – European Union](#)

## APPENDIX J

### Scientific Observer Coverage in Longline Fleets in the WCPFC Convention Area

WCPFC's Conservation and Management Measure (CMM) 2018-5, Annex C, para 6 requires:

*"No later than 30 June 2012, CCMs shall achieve 5% coverage of the effort in each fishery under the jurisdiction of the Commission (except for vessels provided for in paras 9 and 10)."*

#### **Information Reported for the 2018 Calendar Year**

In the EU's 2019 annual report to the ESC<sup>97</sup> it reported that for the 2018 calendar year (pp2,14,20):

*"In 2018 (last WCPFC report), there were 3 Spanish longliners operating in the Southwest Pacific Ocean that had some fishing trips in the SBT distribution area. These surface longliners have the same characteristics as the EU oceanic surface longliners active in IOTC" (p2), and*

*"The 3 Spanish longline vessels in the Western and Central Pacific operate in the temperate area south of 20° south and they mostly work around 30° south. The Portuguese longline that normally operates in the Pacific Ocean did not fish in the SBT distribution area in 2018," (p14)*

.....

*EU longliners have observers onboard according to the rules and coverage rate adopted in WCPFC. In 2018 the observer coverage in EU longliners operating in WCPFC was about 15%.*

*The weight of the catches were estimated by the observers and the electronic logbooks were daily sent to the relevant national authority (Centro de Comunicaciones de la Secretaria General de Pesca of Spain). In 2018, 326679 Kg of fish were measured by observers, detailed data was transmitted to the WCPFC secretariat and the WCPFC scientific provider." (p20).*

#### **Information Reported for the 2017 Calendar Year**

In the EU's 2018 annual report to the ESC<sup>98</sup> it reported the following for the 2017 calendar year (pp2, 12, 14):

*"In 2017 there were 3 Spanish longliners operating in the Southwest Pacific Ocean that had some fishing trips in the SBT distribution area", p2 (and),*

#### **"Spanish fleet:**

*The 3 Spanish longline vessels in the Western and Central Pacific operate in the temperate area south of 20° south and they mostly work around 30° South.*

#### **Portuguese fleet:**

*The Portuguese longline operating in the Pacific Ocean did not fish in the SBT distribution area in 2017." (p12), and*

*"EU longliners have observers onboard according to the rules and coverage rate adopted in WCPFC. In 2017 the observer coverage in EU longliners operating in WCPFC was about 10%." (p14)*

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<sup>97</sup> Pp 2, 14 and 20, [CCSBT-ESC/1909/SBT Fisheries – European Union](#)

<sup>98</sup> Pp 2, 12 and 14, [CCSBT-ESC/1809/SBT Fisheries – European Union](#)

## APPENDIX K

### Information Provided About EU Port Sampling Programmes

#### Longliners that Fished in the IOTC Area

##### *Portuguese and UK Longline Fleet*

The EU's 2016, 2017 and 2019 annual reports to CCSBT's ESC provide the following information about Portuguese and UK longliners which have been fishing within the IOTC Area of Competence<sup>99</sup>:

*"All Portuguese vessels operating in the IOTC convention area are landing their catches in foreigner countries. Furthermore, the catches are transhipped to containers in IO ports and shipped to non-Portuguese ports (mostly Vigo, Spain). Thus, the current port sampling program for the Portuguese longline fleet does not cover those vessels operating in the IOTC conventional area. "*

*"All UK vessels operating in the IOTC Convention area land their catches in third countries. The catches are usually loaded into containers and shipped to non-UK ports. The UK's port sampling programme does not cover those vessels but regular contact is made with the competent authorities of countries where we know that the vessels land. Port sampling is therefore carried out occasionally."*<sup>100</sup>

##### *Spanish Fleet*

The Review team did not find any specific information in the EU's 2016, 2017 and 2019 annual reports to CCSBT's ESC about Flag State port sampling of the Spanish longline fleet that has been operating within the IOTC Area.

In addition, annual reports to the IOTC's Scientific Committee also do not provide any information on a port sampling programme for the Spanish longline fleet but consistently note the following:

*"All unloading and transhipments carried out by Spanish vessels were made under the specifications of EU regulation concerning the logbook, which has a field to be completed with this information. Transhipments had place at port, never at HS."*<sup>101</sup>

This same IOTC [report](#) (p106) notes that for the Spanish fleet:

*"This surface longline fleet is part of a group of vessels that operate far from their port bases and may not call at their home ports for as long as several years. These vessels have similar structural and fishery characteristics and carry out extremely lengthy trips in terms of time. They may even change oceans between trips providing that this is allowed under their administrative situation."*

The EU's response to the draft QAR (APPENDIX N) clarified that:

*"Port sampling is mainly done for scientific purposes and, when available, can be used to double check logbook information. However, currently there are no Port sampling on EU longliners entering the SBT distribution area, which in fact is not an obligation or a recommended activity ...."*

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<sup>99</sup> There are no relevant comments in the 2018 ESC report

<sup>100</sup> Refer to p19 of [CCSBT-ESC/1909/SBT Fisheries – EU](#), pp13-14 of [CCSBT-ESC/1708/SBT Fisheries – EU](#), p11 of [CCSBT-ESC/1609/SBT Fisheries - European Union](#), etc

<sup>101</sup> For example, refer to p105 (section 6.5) of the EU (Spanish) report - [IOTC-2019-SC22-NR05](#), and p92 (section 6.5) of the EU (Spanish) report - [IOTC-2018-SC21-NR05-EU Rev1](#)

## APPENDIX L

### Submission of EU Catch Certificates & Verifications

#### *Excerpts from the EU IUU Regulation (2008):*

**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**

#### *Article 16*

##### **Submission and checks of catch certificates**

1. The validated catch certificate shall be submitted by the importer to the competent authorities of the Member State in which the product is intended to be imported at least three working days before the estimated time of arrival at the place of entry into the territory of the Community. The deadline of three working days may be adapted according to the type of fishery product, the distance to the place of entry into the territory of the Community or the transport means used. Those competent authorities shall, on the basis of risk management, check the catch certificate in the light of the information provided in the notification received from the flag State in accordance with Articles 20 and 22.

2. By way of derogation to paragraph 1, importers who have been granted the status of approved economic operator may advise the competent authorities of the Member State of the arrival of the products within the deadline referred to in paragraph 1 and keep the validated catch certificate and related documents as referred to in Article 14 available to the authorities for the purposes of checks in accordance with paragraph 1 of this Article or verifications in accordance with Article 17.

3. The criteria for granting the status of approved economic operator to an importer by the competent authorities of a Member State shall include:

- (a) the establishment of the importer on the territory of that Member State;
- (b) a sufficient number and volume of import operations to justify the implementation of the procedure referred to in paragraph 2;
- (c) an appropriate record of compliance with the requirements of conservation and management measures;
- (d) a satisfactory system of managing commercial and, where appropriate, transport and processing records, which enables the appropriate checks and verifications to be carried out for the purposes of this Regulation;
- (e) the existence of facilities with regard to the conduct of those checks and verifications;
- (f) where appropriate, practical standards of competence or professional qualifications directly related to the activities carried out; and
- (g) where appropriate, proven financial solvency.

Member States shall communicate to the Commission the name and address of the approved economic operators as soon as possible after having granted this status. The Commission shall make available this information to the Member States by electronic means.

The rules relating to the status of approved economic operator may be determined in accordance with the procedure referred to in Article 54(2).

#### *Article 17*

#### **Verifications**

1. The competent authorities of the Member States may carry out all of the verifications they deem necessary to ensure that the provisions of this Regulation are correctly applied.
2. Verifications may, in particular, consist in examining the products, verifying declaration data and the existence and authenticity of documents, examining the accounts of operators and other records, inspecting means of transport, including containers and storage places of the products and carrying out official enquiries and other similar acts, in addition to the inspection of fishing vessels at port under Chapter II.
3. Verifications shall be focused towards risk identified on the basis of criteria developed at national or Community level under risk management. Member States shall notify to the Commission their national criteria within 30 working days after 29 October 2008 and update this information. The Community criteria shall be determined in accordance with the procedure referred to in Article 54(2).
4. Verifications shall be carried out, in any case, where:
  - (a) the verifying authority of the Member State has grounds to question the authenticity of the catch certificate itself, of the validation seal or of the signature of the relevant authority of the flag State; or
  - (b) the verifying authority of the Member State is in possession of information that questions the compliance by the fishing vessel with applicable laws, regulations or conservation and management measures, or the fulfilment of other requirements of this Regulation; or
  - (c) fishing vessels, fishing companies or any other operators have been reported in connection with presumed IUU fishing, including those fishing vessels which have been reported to a regional fisheries management organisation under the terms of an instrument adopted by that organisation to establish lists of vessels presumed to have carried out illegal, unreported and unregulated fishing; or
  - (d) flag States or re-exporting countries have been reported to a regional fisheries management organisation under the terms of an instrument adopted by that organisation to implement trade measures vis-à-vis flag States; or
  - (e) an alert notice has been published pursuant to Article 23(1).

5. Member States may decide to carry out verifications at random, in addition to the verifications referred to in paragraphs 3 and 4.

6. For the purpose of a verification, the competent authorities of a Member State may request the assistance of the competent authorities of the flag State or of a third country other than the flag State as referred to in Article 14, in which case:

(a) the request for assistance shall state the reasons why the competent authorities of the Member State in question have well-founded doubts as to the validity of the certificate, of the statements contained therein and/or the compliance of the products with conservation and management measures. A copy of the catch certificate and any information or documents suggesting that the information on the certificate is inaccurate shall be forwarded in support of the request for assistance. The request shall be sent without delay to the competent authorities of the flag State or of a third country other than the flag State as referred to in Article 14;

(b) the procedure for verification shall be completed within 15 days of the date of the verification request. In the event that the competent authorities of the flag State concerned cannot meet the deadline, the verifying authorities in the Member State may, on request by the flag State or by a third country other than the flag State as referred to in Article 14 grant an extension of the deadline to reply, which shall not exceed a further 15 days.

7. The release of the products onto the market shall be suspended while awaiting the results of the verification procedures referred to in paragraphs (1) to (6). The cost of storage shall be borne by the operator.

8. Member States shall notify to the Commission their competent authorities for the checks and verifications of the catch certificates in accordance with Article 16 and paragraphs (1) to (6) of this Article.

#### *Article 18*

#### **Refusal of importation**

1. The competent authorities of the Member States shall, where appropriate, refuse the importation into the Community of fishery products without having to request any additional evidence or send a request for assistance to the flag State where they become aware that:

(a) the importer has not been able to submit a catch certificate for the products concerned or to fulfil his obligations under Article 16(1) or (2);

(b) the products intended for importation are not the same as those mentioned in the catch certificate;

(c) the catch certificate is not validated by the public authority of the flag State referred to in Article 12(3);

(d) the catch certificate does not indicate all the required information;

(e) the importer is not in a position to prove that the fishery products comply with the conditions of Article 14(1) or (2);

- (f) a fishing vessel figuring on the catch certificate as vessel of origin of the catches is included in the Community IUU vessel list or in the IUU vessel lists referred to in Article 30;
  - (g) the catch certificate has been validated by the authorities of a flag State identified as a non-cooperating State in accordance with Article 31.
2. The competent authorities of the Member States shall, where appropriate, refuse the importation of any fishery products into the Community, following a request for assistance pursuant to Article 17(6), where:
- (a) they have received a reply according to which the exporter was not entitled to request the validation of a catch certificate; or
  - (b) they have received a reply according to which the products do not comply with the conservation and management measures, or other conditions under this Chapter are not met; or
  - (c) they have not received a reply within the stipulated deadline; or
  - (d) they have received a reply which does not provide pertinent answers to the questions raised in the request.
3. In the event that the importation of fishery products is refused pursuant to paragraphs 1 or 2, Member States may confiscate and destroy, dispose of or sell such fishery products in accordance with national law. The profits from the sale may be used for charitable purposes.
4. Any person shall have the right to appeal against decisions taken by the competent authorities pursuant to paragraphs 1, 2 or 3 which concern him. The right of appeal shall be exercised according to the provisions in force in the Member State concerned.

## GENERAL PROVISIONS

### Article 1

#### Subject matter

1. This Regulation fixes the fishing opportunities available in Union waters and to Union fishing vessels in certain non-Union waters, for certain fish stocks and groups of fish stocks.
2. The fishing opportunities referred to in paragraph 1 include:
  - (a) catch limits for the year 2020 and, where specified in this Regulation, for the year 2021;

<sup>(1)</sup> Council Decision (EU) 2015/1565 of 14 September 2015 on the approval, on behalf of the European Union, of the Declaration on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana (OJ L 244, 19.9.2015, p. 55).

<sup>(2)</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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- (b) fishing effort limits for the year 2020, except the fishing effort limits set out in Annex II, which will apply from 1 February 2020 to 31 January 2021;
- (c) fishing opportunities for the period from 1 December 2019 to 30 November 2020 for certain stocks in the CCAMLR Convention Area;
- (d) fishing opportunities for certain stocks in the IATTC Convention Area set out in Article 30 for the periods in 2019 and 2020 specified in that Article.

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## ANNEX IF

### SOUTHERN BLUEFIN TUNA – AREAS OF DISTRIBUTION

Species:	Southern bluefin tuna <i>Thunnus maccoyii</i>	Zone:	All areas of distribution (SBF/F41-81)
Union	11 <sup>(1)</sup>	Analytical TAC	Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC) No 847/96 shall not apply
TAC	17 647		

<sup>(1)</sup> Exclusively for by-catches. No directed fisheries are permitted under this quota.

## APPENDIX M

### Recognised Catch Documentation Schemes

*(where the RFMO Catch Certificate may, and sometimes with conditions be a recognised substitute for an EU Catch Certificate)*

#### **Excerpts from the EU IUU Regulation:**

**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**

#### *Article 13*

##### **Catch documentation schemes agreed and in force in the framework of a regional fisheries management organisation**

1. Catch documents, and any related documents, validated in conformity with catch documentation schemes adopted by a regional fisheries management organisation which are recognised as complying with the requirements laid down in this Regulation,

shall be accepted as catch certificates in respect of the fishery products from species to which such catch documentation schemes apply and shall be subject to the check and verification requirements incumbent upon the Member State of importation in accordance with Articles 16 and 17 and to the provisions on refusal of importation laid down in Article 18. The list of such catch documentation schemes shall be determined in accordance with the procedure referred to in Article 54(2).

2. Paragraph 1 shall apply without prejudice to the specific regulations in force whereby such catch documentation schemes are implemented into Community law.

The preceding Council regulation (EC) No 1005/2008 of 29 September 2008 was amended by:  
**COMMISSION REGULATION (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**

**COMMISSION REGULATION (EC) No 1010/2009  
of 22 October 2009**

**laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008  
establishing a Community system to prevent, deter and eliminate illegal, unreported and  
unregulated fishing**

*Article 7*

**Recognised catch documentation schemes in RFMOs**

1. The catch documentation schemes adopted by regional fisheries management organisations listed in Annex V, Part I, to this Regulation, shall be recognised for the purposes of Article 13(1) of Regulation (EC) No 1005/2008 as complying with the requirements of that Regulation without additional conditions.

2. The catch documentation schemes adopted by regional fisheries management organisations listed in Annex V, Part II, of this Regulation, shall be recognised, for the purposes of Article 13(1) of Regulation (EC) No 1005/2008, as complying with the requirements of that Regulation subject to additional conditions.

**ANNEX V**

**Catch documentation schemes adopted by regional fisheries management organisations recognised as complying with the requirements of Regulation (EC) No 1005/2008**

Part I Catch documentation schemes recognised as complying with the requirements of Regulation (EC) No 1005/2008:

- Dissostichus spp. catch documentation scheme as set out in Council Regulation (EC) No 1035/2001 of 22 May 2001 establishing a catch documentation scheme for *Dissostichus* spp<sup>(1)</sup>.
- ICCAT Bluefin tuna Catch Documentation Programme as set out in ICCAT Recommendation 08-12 amending 07-10 on an ICCAT Bluefin tuna Catch Documentation Programme.

Part II Catch documentation schemes recognised as complying with the requirements of Regulation (EC) No 1005/2008, subject to additional conditions:

- CCSBT (Commission for the Conservation of Southern Bluefin Tuna) — Resolution on the implementation of a CCSBT Catch Documentation scheme (adopted at the Fifteenth Annual Meeting — 14-17 October 2008). In addition to the catch documents and any related documents validated in conformity with the CCSBT Catch Documentation scheme, the importer shall submit to the authorities of the Member States of importation the information on transport details, specified in the Appendix on transport details included in Annex II of Regulation (EC) No 1005/2008.

<sup>(1)</sup> OJ L 145, 31.5.2001, p. 1.

The preceding **COMMISSION REGULATION (EC) No 1010/2009 of 22 October 2009** was amended by:

**COMMISSION REGULATION (EU) No 202/2011 of 1 March 2011 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Regulation (EC) No 1010/2009 as regards prior notification templates, benchmarks for port inspections and recognised catch documentation schemes adopted by regional fisheries management organisations**

**COMMISSION REGULATION (EU) No 202/2011  
of 1 March 2011**

**amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Regulation (EC) No 1010/2009 as regards prior notification templates, benchmarks for port inspections and recognised catch documentation schemes adopted by regional fisheries management organisations**

THE EUROPEAN COMMISSION,

used for prior notification of port arrivals and the addition of specific criteria to the benchmarks set out for port inspections.

Having regard to the Treaty on the Functioning of the European Union,

(4) Annex V to Regulation (EC) No 1010/2009 lays down a list of catch documentation schemes adopted by regional fisheries management organisations which are recognised as complying with the requirements of Regulation (EC) No 1005/2008. That Annex should refer to the ICCAT catch documentation programme for bluefin tuna as set out in Regulation (EU) No 640/2010 of the European Parliament and of the Council <sup>(5)</sup>.

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing <sup>(1)</sup>, and in particular Articles 9(1), 12(5), 13(1) and 52 thereof,

(5) Regulations (EC) No 1005/2008 and (EC) No 1010/2009 should be amended accordingly.

3. in Annex V, Part I, the second indent is replaced by the following:

‘— ICCAT Bluefin tuna Catch Documentation Programme as set out in Regulation (EU) No 640/2010 of the European Parliament and of the Council <sup>(\*)</sup>

<sup>(\*)</sup> OJ L 194, 24.7.2010, p. 1.’

## APPENDIX N

### EU Comments on the draft QAR report and additional pieces of information

(received on 29 January 2021)

(Note from Review Team: Please note that some of the Appendices and page numbers have been updated since these comments were received from the EU. New Appendices B, C, N and O have been inserted and the remaining Appendices letters updated accordingly.)

#### General remarks

We thank the Secretariat and the Review Team for the draft QAR report. We acknowledge the amount work devoted to this document and the complexity of the task that involved the analysis of a substantial number of documents and numerous exchanges with the EU. However, after a careful evaluation of the text, we are concerned that, in some cases, the information and responses we provided to the Review Team and the Secretariat seem to have been misinterpreted or overlooked (e.g. the internal dissemination of obligations related to CCSBT provisions). Moreover, frequently the Review Team emphasizes issues that occurred before EU became a Member of the Extended Commission (e.g. missing CDS), that are not relevant anymore since they were properly addressed or have not occurred again after one single instance (e.g. the misidentification of SBT imports as aquaculture) or that do not seem to be sufficiently justified on the basis of a cost-efficient risk analysis (e.g. the tags onboard EU vessels). The progress made by the EU to implement the relevant CCSBT resolutions seems sometimes disregarded. In some other cases, the draft report addresses compliance and performance on issues that are not mandatory for the EU (e.g. scientific observers). These oversights and misperceptions lead to some conclusions and recommendations that are not properly justified, as if they were trying to justify preconceived ideas. Overall, this does raise certain questions about the effectiveness and usefulness of some recommendations of this exercise.

It is an important concern that the draft report seems to overlook the characteristics of the EU fishing activities in the CCSBT. Namely, that the EU does not actively target SBT, that there are no reported by-catches of SBT by any EU vessel since 2012 and the EU imports of SBT is rather marginal. We understand that the purpose of the QAR is to assess the performance and ability of CCSBT Member to fulfil their obligations but we did not expect the QAR to assess the EU performance under different criteria. What we would have expected is that the conclusions of the draft report takes into account the circumstances of the EU fleet and proposed some specific recommendation properly adapted to the EU case. We hope that this issue will be addressed in the final version of the report.

Together with those issues, we acknowledge that the report identifies some issues for which specific measures are required to further improve the ability of the EU to meet its CCSBT obligations. The most relevant one is the CDS for which we are taking various actions to address the obligations of this specific Resolution.

Please find below in more detail our preliminary reaction to the draft report. Additional information requested is attached to this document.

### Specific comments

The main characteristic of the EU fishery in CCSBT is that the EU does not have a SBT-targeted fisheries. The EU fleets rarely have SBT by-catches (the last ones were reported in 2012) and SBT imports into the EU are rather sporadic and marginal. Notwithstanding, the EU has put in place a robust system to monitor its fleets and adequate means to control the exports and imports of fishing products.

In these circumstances, the recommendation that the EU should create specific systems to monitor the non-existing SBT by-catches and marginal SBT imports is probably not justified from a cost benefit point of view considering the risks involved. The risks associated with EU's potential by-catch and SBT trade flows are relatively minor, and certainly less than the risks incurred into by any other Contracting Party fishing for SBT and/or having significant SBT trade flows.

In this regard, the Review Team recognises *that the EU's SBT fishery is a very small non-targeted / bycatch fishery with a current total annual catch limit of 11 tonnes and that under current policy and regulatory settings, the EU is unlikely to exceed this very small catch limit. Therefore, there is little risk of the EU's fishery having a significant adverse impact on the sustainability of the overall SBT stock.* However, this conclusion, which should be at the core of an exercise whose aim is to evaluate real risk, seems to be overlooked in the overall conclusion of the report.

Despite the EU does not have a fleet targeting SBT nor any reported by-catches, the EU is making tangible efforts to further improve its control systems related to SBT. Further actions are ongoing and improvements are still expected, notably on shortcomings identified during this QAR, which include the transposition of the obligations related to CDS. Therefore the conclusion indicating that *the EU could not satisfactorily demonstrate that it is fully compliant with all of its CCSBT obligations and associated MPRs in respect of National Allocations and the CCSBT Catch Documentation System* are in our view unjustified and speculative. It is also worth noting that over the last years, there are no reports or evidence available to the EU, the Review Team, the Secretariat or CCSBT Members of the EU being non-compliant with its obligations in respect of national allocations, on the existence of unaccounted sources of mortality or CDS matters. For the latter appropriate action was taken every time the Secretariat identified a possible CDS issue.

Disregarding this important point, the Review Team indicates: *if the EU is unable to comply with the current CCSBT obligations due to logistical issues associated with it having only a small-scale (11t catch limit currently) bycatch allowance for SBT, then it may wish to give consideration to proposing amendments to relevant CCSBT obligations to take its small-scale fishery into account and/or potentially seek exemptions if appropriate.* Noting our position that, contrary to what the draft report indicates, the EU is able to comply with its obligations and there are no significant instances of non-compliance raised at the CCSBT over the past years, the possibility to resort to exemptions is once again overlooked and instead the recommendations focus on the need to fulfill obligations that have been designed for fleets fishing SBT.

It is necessary to make a distinction between the two matters assessed in this QAR: i) the EU National Allocation and ii) the Catch Documentation System.

- EU National Allocation (including tagging and CMF)

The decision to forbid EU vessels to target SBT was a conscious and responsible policy decision to minimize SBT by-catches. In addition to that, there are sufficient measures in place enabling the monitoring and control of the vessels' activities - electronic logbooks, landing information, observation, port State Measures, etc. Those measures have been presented/explained in our replies but the Review Team has failed to take them into account satisfactorily in the report. The mentioned complementary measures significantly also reduce risks of any unreported SBT by-catches.

It is important to place the EU National Allocation in the CCSBT context, and notably vis-a-vis other CCSBT Members' fisheries. The risks of misreported catches are much more important in the existing recreational fisheries, which are exempted of some CDS obligations, or the vast small-scale fisheries than in the EU surface longliners activities in the SBT distribution area. Moreover, the monitoring and control obligations should be commensurate to the size and risks of each fishery. The CCSBT system have been designed to monitor and control important SBT targeted fisheries. It should be self-evident as a QAR conclusion that the system is not tailored for fisheries like the EU that (1) does not target SBT, (2) does not report any SBT by-catches and that (3) is already subject to other control and monitoring systems in other tuna RFMOs.

In conclusion, instead we consider that the draft QAR report should rather propose adjustments and/or simplifications to relevant CCSBT obligations to take into account the specificities of our fisheries, keeping in any case a level of control and monitoring that minimizes the risk of misreporting of fishing mortalities.

- Catch Documentation System (trade flows)

#### IUU Regulation

The EU IUU Regulation clearly states that "*fishery products shall only be imported into the Community when accompanied by a catch certificate*" (Art. 12.2) and therefore, any SBT import will need to be accompanied by the CCSBT catch document, which is an accepted equivalent of the EU catch certificate for SBT imports (on condition that that transport details are provided in addition to the CCSBT catch document) and contains its most basic information.

Each of the 27 EU Member States has developed its own procedures to ensure the verification of the requirement established in Article 12.2 of the IUU Regulation, which as any element of an EU regulation is binding upon EU Member States. An example of how this translates into the operational level by Member State, detailed information can be found on the Irish Sea Fisheries Protection Authority website (<https://www.sfpa.ie/What-We-Do/Trade-Market-Access-Support/IUU-Fishing/Information-for-Importers>). In order to minimize risks that the specific rules related to SBT imports are overlooked, we could consider some corrective measures (see conclusions).

Member States must report every two years on their application of the IUU Regulation. Technical support of the European Commission is continuously provided to Member States to implement the IUU Regulation. Notwithstanding this, we could in order to improve the system concerning SBT also consider to require Member States to report precisely to the Commission any import covered by a CCSBT catch document and ensure a follow-up on possible discrepancies with information reported to DG MARE that is transmitted to the Secretariat (see conclusions).

### Operating systems

There are operating systems and processes established to control imports of fisheries products, and EU Member States use various schemes. In certain Member States, for instance, catch certificates are verified by Customs, whereas in others this is done by the fisheries departments. In any event, all these processes must follow the general rules established in the IUU Regulation:

- No wild marine fisheries product can be imported into the EU without a catch certificate;
- The catch certificate must be submitted 3 working days prior to the arrival of the consignment, except where the legislation specifically provides for a shorter deadline;
- Member States authorities to keep for a minimum of three years the catch certificates submitted upon importation of fisheries products.

To ensure a harmonized implementation of this import control scheme, regular trainings are performed by the European Fisheries Control Agency (<https://www.efca.europa.eu/en/content/iuu>)

The European Commission is also in the process of rolling out a digital database that will record all fisheries products imports into the EU, and further facilitate their verification through automated alerts. Including a specific alert for SBT is an option that could be explored, and which would ensure that appropriate reminder on specific CCSBT rules is triggered for the official in charge of clearing this import. Given that SBT imports into the EU have been limited to 1-3 consignments per year over the last 5 years (vs an average annual import of fisheries products into the EU close to 6 million tons), the EU is of the view that this is certainly the most efficient way to ensure this exceptional scenario is properly addressed by the Member States officials in charge of this specific import. The legal basis for the above-mentioned database is currently under discussion in the European Parliament and in the Council. Finally, and more importantly, legislation is in the pipeline to transpose into the EU legislation the CDS Resolution, which does not exclude that, in parallel, a system of tailored obligations should be adopted by CCSBT envisaging exceptions for the EU fleet (e.g. on the obligation to have tags on board).

### CCSBT CDS forms validators

The list of Member States competent authorities is published in the Official Journal of the European Union and its latest update can be accessed at [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214(03)&from=EN)

This list is established pursuant to the following articles of the IUU Regulation:

- a) Article 15(1): *The exportation of catches made by fishing vessels flying the flag of a Member State shall be subject to the validation of a catch certificate by the competent authorities of the flag Member State, as established in Article 12(4), if required within the framework of the cooperation laid down in Article 20(4).* Article 15(2): *Flag Member States shall notify to the Commission their competent authorities for the validation of the catch certificates referred to in paragraph 1.*
- b) Article 17(8): *Member States shall notify to the Commission their competent authorities for the checks and verifications of the catch certificates in accordance with Article 16 and paragraphs (1) to (6) of this Article.*
- c) Article 21(3): *Member States shall notify to the Commission their competent authorities for the validation and the verification of the section 're-export' of catch certificates in accordance with the procedure defined in Article 15.*

### Conclusions

Imports of fisheries (not aquaculture) products are accompanied by a catch certificate (IUU Reg. Article 12), meaning that in the rare case of SBT imports that would not be accompanied by such documentation it would not be accepted into the EU. However, the IUU Regulation does not contemplate mandatory additional checks for CCSBT catch certificates. In this context, we could consider some corrective measures such as an alert based on the species (SBT), that could trigger a message in the IT systems (CATCH) highlighting to the authorities dealing with this import that it is subject to the specific CCSBT CDS rules. We could also consider the possibility of using of specific codes - as we do in ICCAT for bluefin tuna and CCAMLR for tootfish - that could also trigger specific guidance for the services in charge of clearing such SBT imports.

With regard to the monitoring of imports, we could consider to request Member States to report to the European Commission, any import covered by a CCSBT catch document. We could use in the future this section to check that it is consistent with information reported from the Secretariat and organize a follow-up on possible discrepancies.

More importantly, we are currently in the process of transposing into a specific EU Regulation the specific provisions of the CCSBT CDS to further ensure that those provisions are fully implemented under the EU regulatory framework.

The existing guidance and reminders sent to MS as regards their RFMOS reporting obligations in conjunction with the mentioned possible corrective measures would ensure that the EU and its Member States have appropriate verification processes in place for any SBT imports.

### **Remarks on the Report:**

- Page 2, *This Quality Assurance Review (QAR) is an independent, systematic, evidence-based assessment of the systems and processes that the European Union (EU) has implemented to meet its CCSBT obligations and associated Minimum Performance Requirements (MPRs) with regard to both:*

The references to the MPR obligations and requirements in the main text do not correspond to the MPR document numbering ([https://www.ccsbt.org/sites/ccsbt.org/files/userfiles/file/docs\\_english/operational\\_resolutions/CPG1\\_Minimum\\_Standards.pdf](https://www.ccsbt.org/sites/ccsbt.org/files/userfiles/file/docs_english/operational_resolutions/CPG1_Minimum_Standards.pdf)), which make the analysis of this document a bit difficult.

- Page 2, *This QAR was conducted on the understanding that the EU's obligations for CCSBT's measures are the same as those of all other CCSBT Members and that the EU does not have any specific exemptions from these obligations.*

It is beyond dispute that the EU has the obligation to implement CCSBT's measures. Nevertheless, we were expecting a different recommendation, namely that the requirements and obligations (i.e. on National Allocations and Catch Documentation System) should be adapted to the specificities of this very particular fleet which would imply the adoption of specific provisions in relevant CCSBT Resolutions tailored to reflect the EU specificities as it is the case for other fleets. This could be done through exemptions to the EU fleet or specific tailored obligations. There is in fact one recommendation contained in the draft report, but it has been overlooked and limited to that specific area instead of considering it an horizontal recommendation.

- Page 2 and 3, *What was not particularly clear to the Review Team was the role and responsibilities of the European Commission (DG MARE) in ensuring that EU Member States are aware of their specific CCSBT obligations and whether or not they have the relevant specific national laws, systems, and processes in place to effectively implement these obligations in respect of their nationals and flagged vessels.*

*Under the EU's devolved legal framework it is reasonable to assume that DG MARE would need some form of regular, risk-based monitoring and auditing programme to ensure relevant EU Member States are aware of and are delivering on their legal responsibilities. Without such monitoring and auditing programmes, it would be difficult for the EU to demonstrate to other CCSBT members that it was operating in full compliance with its obligations.*

*While DG MARE advised that it does undertake regular audits and inspections, no auditing and/or inspection programme specifications or reports were provided to the Review Team to demonstrate that relevant EU Member States are indeed aware of and are complying with their legal responsibilities in respect of the EU's CCSBT obligations.*

*The EU was able to demonstrate that it has comprehensive fishing vessel monitoring and fish product monitoring systems and processes in place. However, based on the information provided, it is clear that these EU monitoring systems and processes have not been designed specifically to meet its CCSBT obligations and associated MPRs relating to CCSBT National Allocations and the CCSBT Catch Documentation System (CDS).*

It is very unfortunate that despite our repeated explanations the Review Team is still not familiar with the role, responsibilities and complementarities of the European Commission and EU Member States fishing authorities and other related services. The fact that the European Commission is not directly responsible for the monitoring and implementation of all aspects of CCSBT CMMs does not imply that the European Commission does make sure that each responsible level of monitoring and implementation is not aware and able to do its work and ensure its responsibilities.

In this context, we should highlight again the application of subsidiarity principle, which is an important strength of the EU systems and functioning. Subsidiarity enables not only to reinforce and adjust the number of actors involved in the monitoring and implementing relevant CCSBT resolutions in an organisation composed of 27 different countries, but also ensures that action is taken at the right level (i.e. Federal vs State if you want to make a comparison with the Australian system) and the resources are adapted to the existing needs and divisions of tasks.

It is important to refer to the obligations impending on Member States in terms of Article 7 of the SMEFF Regulation:

3. A flag Member State shall on a regular basis monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.

4. If, as a result of the final outcome of the monitoring activities referred to in paragraph 3, there is evidence that the conditions on the basis of which a fishing authorisation has been issued are no longer met, the flag Member State shall take appropriate action, including amending or withdrawing the authorisation and, if necessary, imposing sanctions. The sanctions applied by the flag Member State in respect of infringements shall be sufficiently stringent to ensure effective compliance with the rules, to prevent infringements and to deprive offenders of the benefits derived from infringements. The flag Member State shall immediately notify the operator and the Commission thereof. Where relevant, the Commission shall notify the secretariat of the RFMO or the third country concerned accordingly.

In addition to these obligations, the European Commission and the European Fisheries and Control Agency (<https://www.efca.europa.eu/>) keep a permanent contact - including meetings, visits, training and audits - with fishing authorities and related services in the EU Member States, which makes sure

that they have the ability to implement and respect the Common Fisheries Policy legislation, including measures derived from RFMOs. Again there is no specific systems created for CCSBT, which is probably justified in terms of cost-benefit risk analysis given the relatively limited size of the SBT fisheries on the overall EU participation in RFMOs. However, the existing systems could be better adapted and synchronized with CCSBT requirements and we will try to do so in the light of the conclusions of this QAR.

Any possible issues that the Review Team could have detected are certainly random and have already been (or are being) resolved. Moreover, taking into account that there are currently 27 Member States in the EU - each one with its fishing authority and services responsible for trade – where the majority of them have never been confronted with SBT issues, there are certainly corrective measures to be implemented to better ensure Member States have appropriate mechanisms to fulfill their obligations.

- Page 3 - *The Review Team understands that the EU has made a policy decision to not permit its vessels to target SBT, however such a policy decision cannot in itself ensure that SBT will not be taken as unexpected bycatch and retained, in which case the relevant CCSBT measures would need to be applied.*

See our remarks on EU National Allocation (including tagging and CMF) on page 2.

- Page 3, *...In addition, noting that the EU permits SBT to be taken only as bycatch, it appears that EU Member States do not formally license their fishing vessels to participate in the SBT fishery. Accordingly, there do not seem to be any specific licensing conditions related to CCSBT obligations included within EU fishing vessel permits/authorizations.*

This interpretation is not correct and the assumption seems a bit ambiguous. The Para 2 of the Resolution on a CCSBT Record of Vessels Authorised to Fish for Southern Bluefin Tuna (RFV Res.) states: 2. *The Extended Commission shall establish and maintain an CCSBT Record of fishing vessels (hereinafter referred to as "fishing vessels" or "FVs") **authorised to fish for SBT**. For the purpose of this recommendation, FVs not entered into the Record are deemed not to be authorised to fish for, **retain on board**, tranship **or land SBT** regardless of their size.*

Moreover, Fishing authorisations are issued under Article 5 of the SMEFF based on a formal **fishing licence** under Article 6 of the Control Regulation. The relevant EU Member State issue permits to its vessels as necessary authorizing them to operate in the SBT distribution area. However, as per the EU Fishing Opportunities Regulation, EU vessels are not authorized to target SBT. There are no reported cases of any by-catch of SBT entering the market as the cases reported long time ago were used for local consumption on-board the vessel or given to charity. In any event, EU vessels do not have any intention to transship or land any incidental by-catch of SBT. After discussions with the Secretariat, we understand that their view is that the fact that the vessel can retain the fish on-board would require the inclusion in the CCSBT Record of fishing vessels of EU vessels entering the SBT distribution area. However, this does not change their status in respect of the first sentence, namely that these vessels are not authorised to target SBT.

In conclusion, the EU vessels operating in the SBT distribution area that could have incidental SBT by-catches and retain it on-board have a fishing permit and are registered in the CCSBT Record of Authorized Vessels. Moreover, information on SBT is included in the mentioned permits. The EU is currently working with Members States to improve this information and build capacity among operators.

- Page 9, *The purpose of this QAR is to document and evaluate whether the EU's systems and processes meet the obligations set out in sections 1.1 and 3.1 of the CCSBT's Compliance Policy Guideline 1: "Minimum Performance Requirements to meet CCSBT Obligations" (CPG4):*

*1.1 Compliance with National Allocations, and  
3.1 Catch Documentation System.*

MPR requirements regarding National allocations have been designed for fleets targeting SBT or having SBT as a significant by-catch. In this framework, it is important to bear in mind that for the reporting of complete and accurate data on the quantity of all sources of SBT mortality the MPR envisages (6.5 vi) that *if the Member is unable to provide complete and accurate data, it will report annually a best estimate of all sources of Southern Bluefin Tuna mortality including recreational catch and discards*, which, in our view, gives room for some flexibility on the application of the performance requirements related to SBT mortality. .

- Page 9 - During 2019 when the Terms of Reference (ToR) for this QAR were agreed, the EU had twenty-eight Member States including three distant water Member State longline fleets (Portugal, Spain, and the UK) it has regularly CCSBT-authorized. For this reason, some of the observations in this report are focused on these three EU Member States and their fleets. Note that the UK ceased being an EU Member State from 1 February 2020 but is included in this QAR since it predominantly considers information that pre-dates 2020

We would like to highlight that formally speaking since the 1 January 2020, the UK is not anymore an EU Member State. In this context, the EU will not be able to consider any recommendations relating to UK fleet.

- Page 10 - The QAR was conducted on the understanding that the EU's obligations for CCSBT's measures are the same as those of all other CCSBT Members and that the EU does not have any specific exemptions from these obligations.

We have already reacted on this observation and believe that given the specificities of the EU in CCSBT, this observation should instead lead to a recommendation proposing some adjustments in relevant resolutions, to take into account its specificities of the EU fleet. This could be done through exemptions to the EU fleet or specific tailored provisions.

- Page 15 - No examples of Member State daily logbook recording or reporting were provided. Page 16 comment on the lack of supporting documents.

You find below a screen capture of the Spanish logbook where SBT is included. You find also attached an excel list with all species that Portuguese vessels, operating in the SBT distribution area are reporting by electronic data transmission, where SBT is included. Where appropriate and justified fishing permits could be updated to further include CCSBT information and in order to facilitate the implementation of the EU's reporting on SBT.

**Definición de Especies**  
 Rellene este formulario para especificar las especies

Identificación de la Especie Capturada

Nombre de la Especie: **SBP - Atún rojo del Sur (Thunnus maccoyii)**

Código	Descripción	Nombre Científico
SAA	Alacha	Sardinella aurita
SAB	Bacalao negro	Anoplopoma fimbria
SAC	Foca del Caspio	Phoca caspica
SAD		Aristostomias grimaldi
SAE	Machuelo	Sardinella maderensis
SAP	Bacalao del Artico	Eleginus gracilis
SAG	Sardina dorada	Sardinella gibbosa
SAI	Pez vela del Atlántico	Istiophorus albicans
SAJ		Acantholingua ohridana
SAL	Salmón del Atlántico	Salmo salar
SAM	Sardina de Ball	Sardinella lemuru
SAN	Lanzones nep	Armodytes spp
SAO	Bacalao orlo	Sallote australis
SAP	Paparda del Pacifico	Cololabis saira
SAQ		Anarchopterus criniger
SAS	Sardinetas	Herengula spp
SAU	Paparda del Atlántico	Scomberesox saurus
SAW	Peces sierra	Pristidae
SAX	Papardas nep	Scomberesocidae
SAZ		Solenocera alfonso
SBA	Aligote	Pagellus acarne
SBB	Estomas	Stomas boa
SBC	Chanchamo bocado	Sebastes paucispinis
SBE		Brachymystax lenok
SBP	Atún rojo del Sur	Thunnus maccoyii
SBG	Dorada	Scorpaenopsis aurata

- Page 19 and 20, *At least for longline trips by EU-flagged longliners within the IOTC Convention Area, in some years there appears to have been either no or little scientific observer coverage of the EU's target fisheries in the Spanish or UK fleets occurring below 30°S, i.e. in areas where SBT are more likely to occur ... The Review Team did not find any information about how much target fishery scientific observer coverage occurred South of 30°S within the ICCAT Area ... Target fishery observer coverage was advised to be, "about 15%" in 2018 and "about 10%" in 2017, but there was no information on whether any of that observer coverage occurred South of 30°S (WCPFC).*

Despite the fact that the referred minimum percentages of observer coverage in other tRFMOs are not obligations to be assessed by CCSBT, please find below the following remarks regarding scientific observation in RFMOs other than CCSBT:

- IOTC: The Spanish fleet is still increasing it but globally the EU fleet is complying with the 5% observation coverage in the Indian Ocean. Scientific observers fully covered fishing trips in fishing grounds south of 30° South.
- ICCAT: Surface longlines fishing trips with scientific observers in the Atlantic are above 5% of total fishing trips but the geographical coverage changes every year, sometimes not covering the fishing grounds south of 30° S., which is not an obligation to EU vessels in ICCAT in any case.
- In WCPFC: Scientific observers fully covered fishing trips in fishing grounds south of 30° South, the main port used by EU longliners (Auckland) operating in WCPFC is in the SBT distribution area.
- Page 20, *Information provided on EU Port Sampling Programmes and self sampling activities...*

Port and self-sampling activities are not compulsory (or even recommended) in CCSBT, therefore it is inappropriate to evaluate port and self-sampling activities in this QAR. Having said this, Spain has an important port sampling programme in the Indian Ocean that is mainly applied to purse seiners fishing for tropical tunas (not applying to longlines) and Portugal has a global self-sampling program that complements the data collected on bycatch species from on-board scientific observers and electronic logbooks.

- Page 20 and 21, *Information about Port Inspections of EU Vessels...*

Some EU surface longliners operating or entering in the SBT distribution area regularly inspected in ports (enclosed you find copies of some port inspection reports) by the respective port State authorities, according to the port State provisions in force in other tuna RFMOs and/or in the FAO PSMA. These inspections in foreign ports are the responsibility of those port State authorities - Montevideo, Cape Town, Cabo Verde, Walvis Bay, Mauritius, Durban, Callao, Papeete, Auckland and in some South and Central America ports in the Pacific Ocean). So far, we have confirmation of some inspections in port from port States (reports attached are only some examples) but no information concerning SBT catches or any infringements related to CCSBT resolutions.

With regard to port inspections in the EU on carriers - with fishing products from EU vessels that operated in the SBT distribution area - and surface longliners - registered in CCBST that steamed back to their original port - there were the following port inspections/landing inspections in 2018, 2019 and 2020:

Inspection report Code	Date	Vessel name	National ID/ or CFR	Vessel/Container	Catch maximum latitud	Inspection location	Inspection result
191144	22/06/2018	O KEVIN	VI-5-4-02	Vessel (LL)	S30	FANDICOSTA	No infrigment, no SBT
258263	18/12/2018	PEDRO XIBANO		Container	S32	NORIBERICA	No infrigment, no SBT
269761	14/08/2019	MAR DO ROSTRO	CA-3-1-06	Vessel (LL)	S33	CANGAS	No infrigment, no SBT
283685	17/09/2020	PUNTAL DE AGUETE	ESP000024967	Vessel (LL)	NA	Spanish port	No infrigment, no SBT
284651	05/10/2020	NORUEGO	ESP000027667	Vessel (LL)	NA	Spanish port	No infrigment, no SBT
279873	25/06/2020	CEDES	ESP000020310	Vessel (LL)	NA	Spanish port	No infrigment, no SBT
N/REF.: 17452/MAG	08/01/2029	RIO LANDRO	ESP000015778	Vessel (LL)	NA	Spanish port	No infrigment, no SBT

- Page 21- 22, *The Spanish fleet is also described as operating far from port bases with vessels perhaps not calling into home ports for several years (IOTC report). Consequently, there is a low chance of flag State port sampling and/or inspections occurring ...*

*In summary, there have been low levels of (or no) scientific observer coverage south of 30°S (where SBT are likely to occur) in at least the Spanish and UK longline fleets within the IOTC Area since 2013, a lack of flag State port sampling, and an unknown level of Port State inspections of EU*

*longliners. Therefore, there appears to be very limited data available to cross-check against logbooks for fish caught in areas south of 30°S, at least within the IOTC Area.*

... And references in pages 24-25 on Compliance with National Allocation OBLIGATION i. MPR4a

In our view, these observations are reductive and seem to ignore the information submitted by the EU. Explanations have been provided above on the scientific observer's coverage indicating that the available observers' information is considerable in the Indian and Pacific Oceans, where by-catches seem more likely to occur. Moreover, in the Atlantic Ocean, EU fleets respect the ICCAT observer's obligations. However, due to the diversified fishing patterns of the EU longline fleets operating in the southern Atlantic, some fishing grounds area are not always covered.

As we already indicated above, port sampling is not a CCSBT obligation and it is referred in our reports as a potential source of information that can be used, when available, to cross check logbook information. Port state inspections are undertaken in foreign ports and therefore these inspections are the responsibility of those port States. When related information is available, it can also be used to cross check information from logbooks. In addition, data from landing declarations and sales notes can also be used with the same purpose.

The Review Team conclusion and explanations indicating "Compliance is not Demonstrated" is unsound and out of the context. The process to inform Member States have been described in our replies as well as in the EU annual reports. We also gave examples of the fishing licences and identification/biological tables and SBT images provided to fishers. Complete CCSBT information that will be further included in fishing authorisations. In addition, DG MARE maintains regular contact with Member States administration and industries to follow up of fishing activities. Improvements of the last years seemed not taken into account by the Review Team that often come to conclusions based on assessments of past cases that have been resolved as it the outcome of the report was somehow already prejudged.

Last but not least, to date there is not a single piece of information available either from the EU, its Member States or third parties, including port state inspection reports, that indicate the existence of SBT by-catches by EU fishing vessels.

- *Page 31, The EU has over-arching legislation which binds EU Member States to comply with measures adopted by RFMO Commissions to which the EU is a Contracting Party. Responsibility for awareness of those obligations is devolved to Member States.*

*The EU provided the Review Team with an example Spanish surface longline fishing permit for the South Atlantic, down to 45°S (note document 5, refer to p109), which lists SBT as a potential (by)catch species. In the legislation section, this permit lists applicable EC/EU Regulations, as well as specifically referring to applicable measures from ICCAT. However, it does not refer to any CCSBT measures.*

*This seems to contradict with the statement made in the document (section 5.2.3) of APPENDIX B:*

*"The authorizations (Permisos temporales de pesca) issued by Spain for each of the vessels include references to the obligations in force in all relevant RFMOs, including CCSBT."*

Member States are officially notified twice a year on their obligation to respect the resolutions adopted in CCSBT. These resolutions are progressively transposed to the EU law. In terms of implementation of CCSBT obligations, DG MARE maintains regular contact with Member States through periodical meetings and written exchanges.

Currently, there is an ongoing process to further improve our systems related to the implementation of CCSBT measures, notably by including more CCSBT information in the fishing licences and through exchanges aiming at further train personnel and disseminate information to administrations and industries. There is legislation in the pipeline to transpose the CDS Resolution into EU law.

- Page 31, *...Therefore, if CCSBT requirements are not mentioned (with respect to bycatch) in the example Spanish permit provided, the Review Team has concerns whether there is an awareness of and monitoring of CCSBT requirements (at least for the Spanish longline fleet in the South Atlantic), especially taking into account the EU's response to QAR Q 33 which was that:*

*"3. A flag Member State shall on a regular basis monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation."*

In view of the specificities of the EU SBT fisheries, there is no significant reason for this concern since the EU fleet do not target SBT and there is no by-catch of SBT reported since 2012. However, SBT is in the list of logbook species that can be (by)caught and, at the same time, the vessel masters and operators are informed that fishers cannot target SBT. Logbook obligations, by-catch reporting and prohibition to reject SBT seems clear and understood by vessel masters. Furthermore, DG MARE is currently working with Member States to provide additional training to its operators and further include CCSBT relevant obligations and information in the fishing licences.

Concerning the aspects related to the CDS, we are also considering this matter in our contacts with Member States and industry and legislation is in the pipeline to transpose the CDS Resolution. This topic has been raised in EC meetings and should be further discussed to find an arrangement acceptable for all Contracting Parties, since the CDS obligations on-board have been designed to vessels targeting SBT or having SBT as a significant bycatch, which is not the case of EU vessels.

- Page 31, ***Review Team Conclusion: Compliance not Demonstrated***

*....No DG MARE documents or key EU Member State documents (e.g. Spain, Portugal or the UK) were provided to the Review Team as evidence that CCSBT obligations are being clearly communicated to relevant stakeholders., e.g. the Review Team was not provided with any stakeholder-targeted documents that clearly set out CCSBT CDS obligations to authorised fishing vessels, processors, importers, exporters and re-exporters such as the requirement to tag any retained SBT at kill and to fill out the appropriate Catch Documentation Scheme (CDS) documents (CMFs), including validating and certifying these...*

This conclusion is overstated, notably by not taking into account the specificities of the EU in CCSBT. The EU does not have a SBT fishery, does not target SBT and does not have any reported by-catches of SBT since 2012. We have already explained the process of informing Member States and industries on their CCSBT obligations, including CDS and we are in permanent contact with Member States to solve any potential shortcomings and increase CCSBT awareness where needed . Probably, instead and in view of the specificities of the EU fleet, the proper recommendation from the draft report should be to give consideration to amendments to relevant CCSBT obligations to consider the EU situation . In parallel, we are also considering to introduce some further improvements in the current systems (see comments).

- *Page 32, ...in the response above, checking of the EU Catch Certificate is a “request” and not a requirement. Articles 16 and 17 of the EU IUU Regulation are provided at APPENDIX J - Article 17(2) on verification clarifies that these are checks that “may” be done*

This was probably a language mistake, in practical terms this is a requirement.

- *Page 33, According to the data submitted to the CCSBT Secretariat in National reports and monthly catch reports, between 2010 and 2012 the EU caught between 17.2 and 18.1t of SBT (Table 5) that would have been expected to be recorded on CDS forms. However, no CCSBT EU CDS forms were issued/ submitted to the CCSBT Secretariat for that SBT catch.*

See our comments above. Page 34, *In addition, since 2010, the EU has received SBT imports associated with 176 CDS import forms, but only 5 import forms have been submitted to the CCSBT. It is not known whether the remaining 171 imports were accompanied by appropriate CDS documentation and whether or not the EU import States checked the SBT was accompanied by appropriate CCSBT CDS documentation.*

- *Since imports do occur, though rarely in recent years, re-exports could potentially also occur.*

These issues, that seem to have taken place a long time ago, do not provide an accurate depiction of the current situation of imports of SBT into the EU and, even less, can realistically speaking be the basis for any conclusions in the draft report. The situation has dramatically improved particularly in the last few years. Since the EU became a CCSBT Contracting Party, these problems have been solved and we are working with Member States to improve the situation when those cases arrive. In full compliance with our CCSBT obligations, we are open to investigate the mentioned cases provided that we receive a copy of the referred 171 CDS import forms.

With regard to re-exports, this is very unlikely and theoretical and certainly irrelevant that the EU export any SBT.

- Page 34, ***Review Team Conclusion: Compliance not Demonstrated***

*The EU was asked to provide documentation illustrating the systems and processes which are in place to ensure that any retained SBT that is landed, transhipped, exported, re-exported and/or imported SBT is accompanied by the appropriate CDS documentation, especially imports, however no specific example documents were provided.*

*In the past, many SBT import CDS documents have not been certified and submitted to the CCSBT Secretariat as required.*

*The Review Team was not provided with any evidence that EU Members are informed of the need to use CDS REEF documents should an EU Member wish to re-export (imported) SBT.*

*The case study concerning the import form belatedly received from Germany (p51) illustrates a case where Germany seemed unaware of its responsibility to record SBT imports appropriately, to check CDS forms, and to certify and submit the relevant CCSBT CDS import forms to DG MARE for forwarding on to the CCSBT Secretariat.*

The referred cases of past SBT import CDS documents that have not been certified and submitted to the CCSBT Secretariat are not relevant anymore. However, as noted above we can undertake an investigation if relevant documents are provided. Since the EU became a member of the EC, CDS import documents have been provided to the secretariat. According to existing information, there were no other SBT trade consignments (imports, exports or re-exports, or landed or transshipped) that could originate any CDS documents.

EU Member States have been officially notified on the obligation to use CDS forms, including REEF documents and DG MARE is working with Member States to further improve the situation and address any possible gaps.

The mentioned case relating to the import form belatedly received from Germany has been explained and clarified and improvements are ongoing. The reason why the import of SBT was not detected in this case was that it was wrongly declared as aquaculture and therefore subject to different certification rules. Wrong declarations can never be fully excluded but they cannot be taken as an example to claim that the system of detection at import would not work. Therefore, a sentence like “Germany seemed unaware of its responsibility to record SBT imports appropriately” is based on single error and not on broader findings sufficient to contradict the evidence otherwise available.

- Page 35, *Appropriate CDS certification is a Member State responsibility. Of the 5 copies of CDS import forms submitted by the EU, only one was appropriately certified upon initial receipt.*

***And, Review Team Conclusion: Compliance not Demonstrated***

*The EU advised that the principal of “subsidiarity” applies, i.e. that responsibility is devolved to Member States*

*Only 1 of the 5 import CDS forms submitted to the CCSBT Secretariat by the EU was appropriately certified upon initial receipt, which suggests EU Member States may be unaware of their CDS certification responsibilities*

*No documents were provided by the EU illustrating the operating systems and processes established and implemented by EU Member States to ensure that all entities with CDS certification obligations have certification requirements and that compliance with certification procedures is verified.*

The previous remark also applies to this conclusion. DG Mare keeps permanent contacts with national administrations on this topic.

- *Page 36, 3.2.4 CDS OBLIGATIONS A (General) i -v): MPRs 2 and 3*

*Any use of specific exemptions to CDS documentation (allowed for under obligation.... recreational catches do not enter the market.*

***And, Review Team General Observations and Review Team Conclusion: Compliance not Demonstrated***

Following the QAR, we have to consider to extend these exemption or set up a simplified system, to fleets not targeting SBT and not having SBT as a significant by-catch. Previous point also applied to these observations and conclusions.

- *Page 39, EU-Spanish Longline Fleet Fishing in 2018*

*The Review Team understands that while the EU did not CCSBT-CCSBT Spanish longliners for 2018, Spanish longliners did actually fish south of 30°S (where SBT are generally distributed). For example, in its 2019 annual ESC report the EU reported (data were not yet available for Spain):*

*“In 2018, there were 37 EU longliners (29 from Spain and 8 from Portugal) operating in the South Atlantic (ICCAT), mainly operating outside the SBT distribution area.....*

*In 2018 (last WCPFC report), there were 3 Spanish longliners operating in the Southwest Pacific Ocean that had some fishing trips in the SBT distribution area.”*

*The EU’s 2019 report to the IOTC’s Scientific Committee confirms that Spanish longliners also fished in the IOTC area during 2018 including south of 30°S:*

*“A total of 11 longline units have been operating in the Indian Ocean during the year 2018, some on them alternating the Indian and other oceans.*

*According to the EU, for non CCSBT-authorized vessels (QAR Q 29) such as the Spanish longliners in 2018:*

*“.... any EU vessel not entered in the Record would not be authorized to retain SBT on board, which is in line with article 20 of the SMEFF Regulation”, and,*

*“In conclusion, in the unlikely event, that a non CCSBT-authorized vessel enters in the SBT distribution area, catch, land and/or tranship any SBT this would be a breach of the rules that apply to all EU fishing vessel and therefore it would be treated as an infringement of the Common Fisheries Policy rules by the competent authorities.”...*

*... Review Team General Observations*

*Not all EU longliners fishing in SBT distribution areas have been CCSBT-authorized/ promptly CCSBT-authorized.*

These conclusions are not correct. This situation has been clarified in our replies to the Review Team but also with the secretariat and further explained at the last Annual Meeting.

All EU vessels were properly authorised to fish in the SBT distribution area. The main issue was that there were some administrative delays to update the vessel’s record list, which was corrected later.

We noticed in March 2018 that the majority of EU vessels listed in the RFV had expired on 31/12/2018. The requests to renew the respective vessel authorisations retroactively from 01/01/2019 was sent to CCSBT on 27/03 and 01/04/2019 and subsequently confirmed by CCSBT. In 2020, we noticed the expiry of authorisations on 31/12/2019 only in September 2020 and requested their renewal retroactively as of 01/01/2020. We explained the late submission of vessels to be listed by an administrative oversight and the absence of a separate formalised authorisation to fish for SBT, as it is indeed the case for all EU vessels. This request was accepted and the vessels were listed retroactively.

In conclusion, this was an administrative oversight and Members States have been duly reminded to avoid such mistakes in the future.

- Page 40, Review Team Conclusion: Compliance not Demonstrated

*Rules have been established and implemented to prevent SBT fishing activity by non-authorized fishing/carrier vessels and the EU stated, “This has been discussed and emphasised with Member States in the last few years and, consequently, the list of EU vessels has been extended to integrate all vessels risking entering in the SBT distribution area, and the list of EU authorised vessels will be updated, whenever necessary”;*

*However, there have been some EU (Spanish) vessels that were not CCSBT-authorized which had some fishing trips in the CCSBT distribution area during 2018 - which conflicts with the statement above, and additionally many EU vessels have only been CCSBT-authorized retrospectively;*

*The Review Team has concerns that, “no real fishing authorisations for CCSBT are issued by the flag Member States”, may mean that CCSBT requirements are not included in EU Member fishing vessel authorisations so that EU Member States may not be aware of the CCSBT’s CDS requirements should they take SBT as bycatch.*

- See above. Page 44, Review Team Conclusion: *Compliance not demonstrated*

*...The EU is not complying with obligations x and xi and the associated tagging MPRs and has not applied for any specific exemptions for any CCSBT obligations.*

While the statement is true, we would have expected a different recommendation from the draft report. Taking into consideration that the EU has not reported any by-catches of SBT since 2012, we wonder how realistic is to expect any fisheries manager or administration to justify this action, furthermore when EU vessels are forbidden to target SBT. .

The specificities of the EU surface longline vessels entering in the SBT distribution area, should therefore be taken into account and some adjustments (i.e. exceptions) should be introduced in the CCSBT legislation, as it is done for some recreational fisheries.

- Page 46, Review Team Conclusion: Compliance not Demonstrated

*The EU has an over-arching legal framework which binds EU Member States to comply with measures adopted by RFMO Commissions to which the EU is a Contracting Party e.g. the ‘SMEFF Regulation’, however the Review Team is unsure if the ‘SMEFF Regulation’ applies in cases where RFMO requirements are not explicitly included within fishing vessel authorisations.*

*The EU has not CCSBT-tagged any of the SBT it caught in the past.*

*No DG MARE documents or Member State documents were provided to demonstrate that EU Member States are aware of and have operating systems and processes established and implemented to ensure CCSBT Catch Tagging requirements (including CDS Appendix 2) are met in the event SBT is by-caught or to check the tags of any imported SBT and ensure that these are retained to the first point of sale.*

*The Review Team wasn't provided with any evidence that EU's vessels carry SBT tags in the event they are needed and the EU noted that carrying tags is not a "priority" for its vessels (QAR Q 30), however the EU does not have any exemption to the CCSBT's tagging obligations.*

*No documents such as monitoring, auditing and/or quality assurance reports were provided to demonstrate that the EU is monitoring compliance with CCSBT tagging requirements and reporting/ sanctioning cases where SBT is landed without tags.*

We have explained on several occasions the procedure used by DG MARE to inform Members States on the adopted of CCSBT Resolutions and on the obligation to implement them. In addition, we have annual meetings with national administrations and industry to prepare the CCSBT annual meeting where compliance issues are addressed, including the implementation of the CCSBT CMMs. Audits are also undertaken regularly on the application of EU regulations, notably relating to our MCS systems. We are also on permanent contact with national administration and industry, something that is not reflected in the draft QAR report.

Further discussions should be undertaken at the CCSBT to find acceptable arrangements that could accommodate the specificities of the EU fleet, notably taking into account that the Catch Documentation Scheme applied to fishing activities have been designed to vessels targeting SBT or having significant SBT by-catches.

- *Page 48, The EU did authorise three government validators from Denmark in November 2017 and therefore Denmark is currently the only EU Member State that can issue and validate CCSBT CDS documents such as CMFs and REEFs. However, the EU has not reported that any Danish-flagged vessels fished in the ICCAT, IOTC nor WCPFC Convention Areas and there are no Danish-flagged vessels included in the tuna RFMO Consolidated List of Authorised Vessels (CLAV). Denmark has also not been recorded as an importer (and so potential re-exporter) of SBT product, therefore, there appears to be little need for Denmark to issue any CCSBT CMFs (or CTFs) or have any authorised validators.*

As indicated above, the list of Member States relevant and competent authorities to validate "IUU certificates", including CCSBT CDS certificates is published in the Official Journal of the European Union ([https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214\(03\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0214(03)&from=EN)).

- *Page 48, Since the EU has to date neither issued nor validated any CCSBT CDS forms, there has been no need for these requirements to be implemented in practice yet, however appropriate processes still need to be in place in the event that SBT is taken as bycatch.*

*And, Review Team Conclusion: Compliance not Demonstrated*

*The EU advised that the principal of “subsidiarity” applies, i.e. that responsibility is devolved to Member States, including for CDS validation requirements*

*The EU has CCSBT-authorized 3 Danish validators*

*No DG MARE documents nor Member State documents were provided to demonstrate that EU Member States have operating systems and processes established and implemented to ensure CDS Validation requirements are met, in particular being aware that any imports of SBT on CDS forms need to have been appropriately validated by the exporter before imports are accepted, e.g. by validator’s signature and seal.*

*And, The EU has signaled that special circumstances such as simplified requirements should be considered for it, however it has not put forward any revised CDS Resolution for Members’ consideration.*

In this respect, we believe that the EU and the Commission should consider some adjustments and/or simplifications in relevant provisions of the CDS Resolution and this should be done in light of the QAR conclusions.

- Page 51, *Therefore, it appears that Germany was unaware of its CCSBT reporting obligations up until 2020, at least for SBT farmed after initial wild capture.*

*And, Review Team General Observations*

*Since the beginning of the CDS, it is expected the EU should have submitted 176 copies of import CDS SBT import documents to the Secretariat. To date, of the 7 imports of SBT sent to the EU between 2015 to 2019 inclusive, 5 out of 7 copies of import CDS forms have been submitted to the CCSBT Secretariat (Table 7). None of these were independently identified and submitted to the Secretariat by DG MARE nor submitted within the required timeframe. The forms were only located and submitted after the Secretariat provided intended importer information to the DG MARE. There is a risk that this same lack of awareness about SBT import requirements applies in other EU Member States.*

With regard to the referred 176 copies of import CDS SBT documents, we reiterate that the related pieces of evidence can be sent to DG MARE in order to allow an investigate of these cases. Having said that, the specific of those cases have not been fully disclosed and they relate to imports made some years ago at the beginning of the CDS system and before the EU was member of the EC. Since the EU became a CCSBT EC Member, all CDS export documents sent to DG MARE have been retrieved and completed. These documents were retrieved in reaction to the Secretary reminders, which is not an ideal situation, but we continue to work on ways to improve the system. .

- Page 52, Review Team Conclusion: Compliance not Demonstrated

*In 2015 the EU commented that Member States may not have been aware of their responsibilities regarding CDS submissions; an example of this lack of awareness occurred for an SBT import into Germany during 2019.*

*The Review Team concludes that the EU's quarterly request for CDS forms process does not appear to be operating well. There has to date been no occasion where EU Member States have independently detected and provided import copies of CDS documents to DG MARE (and so to the CCSBT Secretariat) within the required timeframe.*

The German case is different from the other referred cases and since 2015 all CDS certificates have been retrieved. As noted above, DG MARE continues to work to improve the situation.

- Page 54, Review Team Conclusion: Compliance not Demonstrated

*The EU has an over-arching legal framework that binds EU Member States to comply with measures adopted RFMO Commissions to which the EU is a Contracting Party, although verification does not seem to be mandatory.*

*No DG MARE documents nor Member State documents were provided to the Review Team to demonstrate that EU Member States have operating systems and processes established and implemented to ensure appropriate verification of CDS requirements*

The scrutiny of import certificates is done through the EU CDS established by the EU IUU Regulation. This system is based on a risk assessment and not on 100% checks. Based on that premise, there is a risk that the specific rules related to SBT imports might be overlooked but, on the other hand, the number of these imports is very low and must be seen in that light. We are ready to consider remedial measures (see in conclusion in the specific comments above).

- Page 59, The, *“European Commission continually performs regular audits and inspections of the European Member States control systems in place, to ensure that they do comply with all the EU obligations, including those contracted at international level, and are effective. Deficiencies are identified through audits and addressed through action plans, and that “during 2018 and 2019 an audit series was conducted on the EU’s ‘external fleet”, although it is not clear if recent audits included an examination of compliance specifically with CCSBT requirements (APPENDIX B, section 2.1 – audits).*

The last audits on the external fleets did not show any issues related to SBT, although it should be noted that this was not the main objective of the audit. However, we could try to be more explicit on CCSBT related issues in future audits of the external fleets, notably if we identify that there are some issues to be address; something that has not been the case until now. We are also working with Member States to further improve their report system.

- Page 60, *Spanish National legislation prohibits all at-sea transshipment operations.*

In practical terms this also applies to Portugal, at-sea transshipment is an infraction according to national law.

- Page 61, *Table 11: Weaknesses - Over-Arching*

*The principle of “subsidiarity” generally applies – meaning that responsibility is devolved to Member States described by the EU as: “According to the principle of subsidiarity applied in the EU - decisions are kept with Member States, if Members states have the competence and the intervention of the European Union is not necessary”, and*

*“The correct application of the law in force is the competence of the national authorities and to a large extent the EU has to rely on this”*

*Therefore, the EU’s compliance depends on each Member State being aware of and implementing the correct CCSBT processes.*

*If this principle is applied by the EU then the European Commission needs to have an over-sight role, e.g. regular monitoring and audits, to ensure that each Member State has disseminated information on the CCSBT’s obligations and any updates appropriately and in a timely manner.*

We strongly disagree with the consideration of the subsidiarity principle as a weakness. The European Commission has an over-sight role, including monitoring and audits, ensuring that each Member State has disseminated information on the CCSBT’s obligations and any updates appropriately and in a timely manner. As we explained during the discussions on the terms of reference of the QAR, the EU is a integration international organisation where its Member States have transferred some of its competences to the EU and the implementation of the provisions can be attributed to the EU or to its Member States or shared. To a layman this is probably akin to the division of competences between the States and the Federal Government in Australia. Subsidiarity that is a pillar of the EU makes the system stronger, the EU Commission and EU Members States are working together, in complementarity and synergy and with common objectives.

- Page 61, *In many cases the EU (DG MARE) did not provide any/sufficient documentation to demonstrate that relevant systems and processes have been established, in particular for Member States that are known to fish in the SBT distribution area (Portugal, Spain and the UK), or for Member States that are known to have imported SBT products in the past (Croatia, France, Germany, Italy, Spain and the UK*

We have provided in our previous replies and in this document, information demonstrating that relevant systems and processes based on risk management are in place to monitor and trace SBT imports. Legislation is in the pipeline to transpose into the EU Regulation the CDS Resolution.

- Page 61, *While EU advised that regular audits of Member States are conducted and that self-reporting by EU Member States with respect to the EU's IUU Regulation is required every 2 years, it is not clear if there are any audit points that specifically cover CCSBT obligations*

In fact, Member States must report every two years on their application of the IUU Regulation. The analysis of these biennial reports is used to detect potential weaknesses and feed dedicated trainings by the European Fisheries Control Agency as well as specific meetings with the Member States and where relevant the European Commission can also perform visits or audits to the Member States. It is true that audit points do not specifically cover CCSBT obligations but do cover the implementation of the EU CDS, which also includes possible imports of SBT covered by the CDS. However we can consider ways to better cover CCSBT obligations in the future, notably to check the accuracy of the information provided to the Secretariat (see conclusions in the specific comments above).

- Page 61, *No Spanish longliners were CCSBT-authorized during 2018, even though some Spanish longliners did fish within the SBT distribution area in 2018.*

This has already been explained and corrected and does not entail any weakness concerning CCSBT systems.

- Page 61, *Table 12: Weaknesses - Compliance with National Allocations*

Low levels of target species scientific observer coverage have often occurred in areas South of 30°S where SBT are usually found.

This weakness should be relativized. The observer coverage (presented above) - which is not an obligation to the EU fleet - is at the level defined by other tuna RFMOs enabling to trace SBT by-catches, particularly in areas where the likelihood to have SBT encounters is higher.

- Page 61, *Little EU Member State port sampling of its flagged longliners appears to occur immediately after longliners have fished in SBT distribution areas. EU documentation confirmed that no port sampling of Portuguese or UK longliners occurs after those vessels have fished within the IOTC Area. Therefore, port sampling data is generally not available as a tool to verify catch taken from SBT distribution areas, including checking for the possibility that SBT may have been caught and retained.*

Port sampling is mainly done for scientific purposes and, when available, can be used to double check logbook information. However, currently there are no Port sampling on EU longliners entering the SBT distribution area, which in fact is not an obligation or a recommended activity and therefore should therefore not be pointed out as a weakness.

- Page 61, *Few EU Member Flag State inspections of their flagged longliners or port State inspections of EU Member-flagged longliners appear to occur following fishing activity in SBT distribution areas at least within the IOTC Area, thereby limiting the opportunities to independently verify catches.*

Flag State inspections are not an obligation established by the CCSBT. Port inspections are the responsibility of port States and when longliners steam to its port of origin or carriers land fishing products, in EU ports, caught by vessels registered in CCBST vessel record inspection are also undertaken (see reply: Page 20 and 21, *Information about Port Inspections of EU Vessels...*).

- Page 61, *There are anomalies in the SBT mortality data submitted from different sources, especially for 2010 and 2011, as well as potentially the geographic areas in which the SBT are reported as having been caught.*

Those anomalies relate to events that occurred 10 years ago, we wonder to what extent this is relevant for the QAR, and before the EU became a Member of the Extended Commission. The situation has been corrected in the meantime.

- Page 62, *Table 13: Weaknesses - Compliance with the CDS System (Resolution)*

There is no evidence that the EU has tags available that meet CCSBT's requirements in the event that SBT is taken as bycatch; there is also no information available that a risk management strategy is in place to minimise the risk of illegal SBT being marketed e.g. SBT without tags

This consideration seems to overlook the actual fact that the EU fleet has not reported any by-catch of SBT since 2012. This should be enough to discourage any remarks about a risk management strategy in place, since the information we are getting from the field is that the actual risk is close to zero. A more sensible recommendation, if any, from the QAR would be for the EC have to consider the adoption of simplified systems for fleets not targeting SBT and not having SBT as a significant by-catch. The actions taken to minimize illegal SBT being marketed have been explained – cross checks of logbooks, sales information, observer reports, port inspections, etc. The risks are very low and not comparable to the same risks in any fleet fishing SBT.

- Page 62, *DG MARE as the EU's administrative body does not appear to have a dedicated mechanism to verify any SBT recorded on CDS import document. There is also no documentation available regarding the checks that EU Member States carry out on (CCSBT) catch certificates accompanying imports (refer to QAR Q 23), therefore it can't be determined whether CCSBT forms and tags are adequately checked by EU importers.*

National administrations take some of their decisions on the basis of a cost-effective risk assessment. In this regard, dedicated mechanisms might be justified when an EC Member has SBT fisheries or significant trade flows, not necessarily when one has marginal SBT by-catches or sporadic imports of some kg of SBT/year. In the case of the EU, there are robust mechanisms to monitor and control catches and trade flows, not specifically dedicated to SBT. We would have expected the QAR recommendation to take this important consideration into account and to link its theoretical assessment with the actual reality in the field before making this type of considerations.

- Page 62, *With respect to tagging, there is a gap between the EU's over-arching legislation that requires operators to comply with the rules of RFMOs versus the EU's response to tagging questions where the EU noted that, "Taking into account the absence of reported SBT by-catches since 2013, the obligation to carry on-board tags in EU vessels is not a priority in view of the fact SBT catches are unlikely and unexpected and that there are no SBT by-catches reported since 2013."*(QAR Q 30)

See above our remarks for tagging.

- Page 62, *There are no documented authorised EU validators in EU Member States which have authorised longliners to fish in SBT distribution areas in recent years (e.g. at least Portugal, Spain and the UK).*

This remark seems to be misplaced and ignores the information we have submitted regarding the Member States authorities in charge of the issuing of fishing licenses. It is worrying that this a statement that affirms that EU vessels fish without license can find its place in the draft report despite the information provided.

- Page 62, *DG MARE/ EU Member States have to date not demonstrated adequate awareness of CCSBT CDS submission processes, e.g. 176 CDS documents which it should have submitted to the CCSBT since 2010 have not been submitted.*

See our reply above on the same topic.

- Page 62, *From the documentation provided, Member State provision of CCSBT CDS import forms to DG MARE (for DG MARE to then submit to the CCSBT) appears to be based upon a quarterly 'request' rather than a quarterly requirement to provide such documents to DG MARE.*

This conclusion is not correct, the CCSBT CDS import forms are required by DG MARE.

- Page 63, *Table 14: Threats (Risks) - Over-arching*

*There is a risk that not all sources of SBT mortality have been detected by the systems and processes that the EU currently has in place.*

We disagree with this statement, which is of speculative nature. The system in place is robust enough to detect all sources of SBT mortality. None of the sources available to us, whether port inspections, or scientific observer reports or others reveal the existence of any single instance of unaccounted mortality. If the Review Team, the Secretariat or CCSBT Members are aware of reports of unaccounted mortality by the EU fleet this information should be put forward rather. Furthermore, even in the theoretical possibility that such risk would exist, it should be relativized and put in the real context, it is

marginal, certainly not in a magnitude that could compromise SBT sustainability and likely less important than the misreporting threats in other SBT fisheries.

*Page 63, Information on CCSBT obligations and revisions to those obligations (including to the CDS) may not be disseminated/ or disseminated in insufficient detail to all potentially involved EU Member States/ relevant departments and personnel in those Member States.*

*And, Due to the large volume of inter-related EU fisheries laws, Member States may not easily be able to find and determine what are the practical requirements of complying with the CCSBT's obligations (e.g. the CDS).*

*And, The low frequency of SBT bycatch and import events may result in lack of awareness and preparedness regarding CCSBT requirements if/when those events do occur.*

These risk should be relativized and put in its real context. We have explained the existing mechanisms to notify and oblige EU Member States to comply with CCSBT resolutions as well as mechanisms used to enforce these obligations. DG MARE in the light of the QAR conclusions will work to further ensure awareness capacity in Member States and industry on the implementation of CCSBT obligations, where necessary. However, due to the unlikely nature of SBT by-catches and low trade flows in the EU, risks associated to a lack of awareness of CCSBT resolutions in EU Member States seem to be inconsequential.

*Page 63, The low frequency of SBT bycatch and import events could result in an increased potential to misreport due to difficulties in complying with CCSBT obligations which was highlighted by the EU in one of its responses:*

*e.g. "Because of its rare dealings with SBT, it is difficult for its fishers to comply with the CDS (e.g. by carrying valid tags) and there is a potential for masters to misreport SBT to avoid the difficulties involved in reporting SBT" (QAR Q 41)*

The previous remarks on this topic also apply here.

- *Page 63, Table 15: Threats (Risks) - Compliance with National Allocations*

*Due to no (UK until Jan 2017) or low target species observer coverage levels of target fisheries in some EU longline fleets within the IOTC Area of Competence (Spain – especially for latitudes south of 30°S from 2015 onwards), there is a heightened risk in these fleets that SBT could be caught and retained and mis-identified, and/or discarded and not identified.*

This threat is minimal and likely without major consequences for SBT sustainability. The observer rate is continuously improving, all relevant vessels have SBT identification fiches on-board, the vessels are subject to Port inspections (that the Review Team seem to disregard) and sales information is crosschecked with logbook data.

*Page 63, Small catches of SBT could be continuing to be given to local workers or eaten by crew, donated to charity or sold fresh on local markets without being recorded in the CDS or incorporated into SBT 'Attributable Catch' estimates.*

This is a non-issue. The mentioned cases happened sporadically long time ago and did not repeat itself recently, which has been explained in several CCSBT Annual Meetings. Moreover, fishers are required to provide data on all fishing mortalities, including fish eaten on-board or donated. There is not CCSBT obligation to tag fish not entering the market.

*Page 63, A lack of regular and/or targeted port sampling/inspection regimes for EU longliners (in particular the Spanish fleet) that have fished in the IOTC Area of Competence (and potentially for the EU's fleet in the ICCAT and WCPFC Convention Areas) and then docked in non-EU ports to unload means that in many cases there is a low probability that port sampling/ inspection data is available to verify catch, etc and the risk of undetected/ misreported SBT catch entering the supply chain is increased.*

The port sampling is not an existing CCSBT obligation and should not be pointed out as a threat. Port sampling done by the Spanish fleet aims to provide more precise catch information with scientific purposes and could be used to check if there were any SBT by-catches, currently port sampling only applies to Purse Seiners. Regarding Port Inspections, they occur as to any other fishing fleet in CCSBT.

- *Page 64, Table 16: Threats (Risks) - Compliance with the CDS (Resolution)*

*Reference to CCSBT requirements may not be included within the fishing vessel permits of some EU Member-flagged longliners fishing in SBT distribution areas.*

There are references to CCSBT requirements in the permits of the EU surface longliners operating in the SBT distribution area. We are currently working to progressively include additional CCSBT information in the mentioned permits.

*Page 64, No Spanish vessels were CCSBT-authorized during 2018 and Portuguese/Spanish longliners were only CCSBT-authorized for 2020 retrospectively (in mid-September 2020). Non-CCSBT-authorized vessels are not permitted to retain SBT but also cannot discard SBT as it is a quota species. This situation may create an incentive for non-CCSBT-authorized EU Member flagged vessels to discard SBT illegally.*

This threat does not seem to be realistic. All surface longliners operating in the SBT distribution area have a fishing permit and the industry has been informed that they are allowed to have SBT by-catches and therefore allowed to retain SBT. The referred cases of lack of authorisation were sporadic and due to an administrative oversight, which has been resolved in the meantime. Vessel masters are aware of their obligations to report SBT by-catches, There are no non-CCSBT-authorized EU Member flagged surface longliners operating in the SBT distribution area.

*Page 64, SBT landed directly by EU vessels could be misidentified by catchers/ importers and recorded as other tuna species for which CCSBT CDS documents would not be required.*

This is a statement of speculative nature not backed up by any actual evidence of it occurring in the past.

*Page 64, SBT could be transhipped in port or at sea to non-CCSBT authorised Carrier Vessels.*

This is speculative. There are no records of SBT being transhipment from EU vessels, less to non-authorised vessels, which would amount to IUU fishing.

*Page 64, Tags of the required CCSBT standard are not available for vessel crew to tag any SBT that may be taken as bycatch either at the time of kill or upon landing (exceptional circumstance).*

See are replies above.

*Page 64, Compliance with respect to CCSBT tagging requirements is not being adequately monitored or sanctioned by DG MARE/ EU Member States.*

The CDS CMM has been designed for fleets targeting SBT or having significant SBT by-catches, and therefore the CDS CMM should be revisited to accommodate the specificities of vessels with very low probability to having SBT by-catches (i.e. an exception for fleets that do not to land their by-catches when these are not substantial or non-existing as it is the case for the EU). In the meantime, there is legislation in the pipeline to transpose into EU Regulation the CDS Resolution.

*Page 64, There are currently no nominated CCSBT-authorised Spanish, Portuguese or UK validators to validate any CDS forms that would need to be completed should any unexpected SBT bycatch be taken by these key fleets. Only Danish validators have been CCSBT-authorised.*

The full list of services/validators is attached.

- *Page 64, EU Member States and their stakeholders may not be fully aware of CCSBT requirements for completing, validating, certifying and submitting CDS forms including tagging data.*

There are no reported by-catches of SBT by the EU fleet since 2012. Even when catches took place, the SBT did not enter the market. There are rigorous procedures to notify and oblige EU Member States to comply with CCSBT resolutions and mechanisms to enforce CCSBT obligations, DG MARE in the light of the QAR conclusions will work to further raise awareness of Member States and stakeholders to fulfil the requirements for completing, validating, certifying and submitting CDS forms.

- Page 64, *EU Member States may not forward CCSBT CDS import documents to DG MARE (for submission to CCSBT) due to issues with how import shipments are received and classified, e.g. the German import which was declared as aquaculture and so not recorded as SBT with the German Federal office for Agriculture and Food.*

It seems unsound to put forward a consideration based on one single instance that, furthermore, has been solved and that has not repeated again. DG MARE requires Member States quarterly (and whenever necessary) to provide CCSBT CDS import forms. DG MARE has been working with Members States to progressively raise awareness and improve the enforcement of CDS CMM.

- Page 65, *5.4 Opportunities (Recommendations) for Improvement Table 18: Opportunities (Recommendations) - Compliance with National Allocations*

That when next DG MARE audits Portugal and Spain, checks are included to ensure that CCSBT measures are referred to in any relevant Member State documents, *e.g.* in longliner authorisations (if appropriate) that may fish in SBT distribution areas.

That for the ICCAT, IOTC, and WCPFC Areas of Competence, the EU records what percentage of target scientific observer coverage occurs specifically within SBT distribution areas. This would enable clear quantitative information on how much logbook data from fishing events in SBT distribution areas can be verified against scientific observer data, and this information could be included in CCSBT annual reports in future years and/or provided if requested.

That the number of Flag State port sampling events of Portuguese, Spanish and UK longliner vessels conducted on vessels that have fish on board taken from SBT distribution areas is recorded annually<sup>102</sup>, so that the EU can quantify statements about what proportion of relevant logbook data can be verified against this independent data source.

That the number of Port State and at-sea inspections undertaken of EU longliners that have fish on board that were caught in SBT distribution areas is recorded annually so that the EU can quantify statements concerning how much relevant logbook data can be verified against these inspection data

That the EU undertakes an analysis of the outcomes of recommendations 2, 3 and 4 above to determine if there is sufficient scientific observer coverage, as well as port sampling and Port State/ at-sea inspection events occurring (and associated data records available) to provide adequate independent verification of the SBT/ lack of SBT reported in EU longline logbooks.

That the EU give serious consideration to implementing 100% e-monitoring coverage with scientifically supported review rates, of vessels fishing in the SBT distribution area to ensure a high level of verification of catch and effort data reported in logbooks.

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<sup>102</sup> And recorded separately for the ICCAT, IOTC and WCPFC areas

We take note of these recommendations that should however be commensurate with the activities the EU fleets operating in SBT distribution area and with the obligations relating to the EU National Allocation.

Some of these recommendations should be accomplished in synergy with our obligations in other tuna RFMO, where the EU has very good levels of compliance and keeps always a position to the standards of MCS systems, including scientific observation. There is legislation in the pipeline to transpose into EU law the CDS Resolution.

- Page 65 and 66, *Table 19: Opportunities (Recommendations) - Compliance with CDS (Resolution)*

*All EU-flagged longliners fishing in SBT distribution areas are CCSBT-authorized with Flag State authorisations which include appropriate references to CCSBT measures so that the vessels are aware of CCSBT requirements in the event that SBT is taken as bycatch.*

*That the EU ensures that Member States that have longliners fishing in SBT distribution areas have the relevant systems and processes to issue, complete and submit uniquely numbered CCSBT CDS forms should bycatch of SBT occur.*

*CCSBT tags are made available for tagging any unexpected bycatch of SBT either by keeping the tags on board some EU Member-flagged authorised longliners that regularly fish in SBT distribution areas and/or storing them at regular landing ports of EU Member-flagged longliners that fish in SBT distribution areas (so that any SBT bycatch can at least be tagged at landing i.e. tagged as an exceptional circumstance).*

*That the EU authorises some Portuguese and Spanish CDS validators so that these validators are available and aware of their responsibilities in the event that SBT bycatch is taken by Portuguese/ Spanish longliners and CDS forms need to be completed and validated.*

*In 2019 DG MARE found that Germany had not reported an import of SBT from an Australian farm because the shipment had been declared as aquaculture and not recorded with the German Federal Office for Agriculture and Food. It is recommended that the EU check to determine whether this same issue could occur for other EU Member States since it may prevent farmed SBT imports from being reported to DG MARE.*

*If the EU is unable to comply with the current CCSBT obligations due to logistical issues associated with it having only a small-scale (11t catch limit currently) bycatch allowance for SBT, then it may wish to give consideration to proposing amendments to relevant CCSBT obligations to take its small-scale fishery into account and/or potentially seek exemptions if appropriate.*

We take note of these recommendations, which we would have expected to be commensurate with the specificities of the EU fishery in CCSBT and therefore proposing the adoption of tailored measures for the EU in view of:

- i) the nature and structure of the EU fleets operating in the SBT distribution area - notably the fact that the EU fleet does not target SBT and its very limited allocation - and the fact that there have no SBT by-catches reported since 2012;

- ii) the rather marginal number of the SBT imports into in the EU; and
- iii) the effective monitoring, control and surveillance systems in place.

Furthermore, the majority of these recommendations concerns the implementation of the CDS Resolution for which we have provided explanations in our previous replies and above and for which transposition into EU Regulation is envisaged. We would have expected the draft QAR to already envisage some possible amendments to the existing CCSBT provisions to take into account the specificities of the EU fleets as it is pointed out in the last recommendation.

DG MARE is already working and will continue to work with EU Member States and relevant stakeholder to address some problems identified and to take into consideration some of the elements raised in the draft QAR report.

## APPENDIX O

### Review Team Acknowledgement of the EU's Response

25 June 2021

Dear Commissioner Fachada,

Thank you once again for the EU's comprehensive response to the Review Team's draft QAR. The Review Team apologises for the delay in providing this detailed reply which has been largely due to the continuing impacts of COVID-19 and the need to thoroughly analyse the information provided.

We have analysed the EU's response carefully, and where we considered it appropriate, have made revisions to the draft report.

We attach copies of the finalised QAR report for your reference:

- a clean version, and
- a tracked version for transparency.

Note that the finalised clean version of the QAR is also being provided to the Executive Secretary today as required by the QAR Methodology.

In addition to the draft QAR report revisions, the Review Team thought it important to provide some general feedback on the EU's response, which is included under the sub-headings below.

#### Scope of the QAR

The Review Team notes that in its response to the draft QAR report, the EU made some comments about cost-efficiency, e.g.:

*"... there is no specific systems created for CCSBT, which is probably justified in terms of cost-benefit risk analysis given the relatively limited size of the SBT fisheries on the overall EU participation in RFMOs"<sup>103</sup>.*

The EU also noted that the QAR might propose adjustments to relevant CCSBT obligations, e.g.:  
*"In conclusion, instead we consider that the draft QAR report should rather propose adjustments and/or simplifications to relevant CCSBT obligations to take into account the specificities of our fisheries, keeping in any case a level of control and monitoring that minimizes the risk of misreporting of fishing mortalities"<sup>104</sup>.*

The Review Team understands that considerations of cost-efficiency, risk analysis, and/or any reviews of the currently adopted CCSBT obligations are outside the scope of this QAR Terms of Reference (ToR). We can only suggest that the EU raise these matters with the Extended Commission.

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<sup>103</sup> Page 6 of EU response under the header, "Remarks in the Report"

<sup>104</sup> Top of page 3 of EU response (under the sub-header "EU National Allocation")

Further, the Review Team understands that the EU has been a Cooperating Non-Member (CNM) of the CCSBT since 13/10/2006 and a full Member of the Extended Commission (EC) since 13/10/2015<sup>105</sup>, and that as both a CNM and Member of the Extended Commission, the EU agreed to implement CCSBT's measures and associated obligations and does not have any exemptions with respect to those obligations.

## Reference to Observer Reports/ Coverage and Flag/Port State Inspections and Port Sampling within the QAR Report

The scope of this QAR includes reviewing MCS<sup>106</sup> systems for EU's distant water bycatch fishery, and the QAR ToR (section 2) specifies that emphasis will be placed on, "*... the systems and processes in place for the accurate reporting and verification of any bycatch and discards ....*".

While the Review Team recognises that a specific purpose of the QAR was not to assess minimum percentages of observer coverage by the EU for target species in other tRFMOs, observer reports and data are important for verification of bycatch and discards, and, along with other sources of information may contribute to the calculation of bycatches, for example as referenced in the EU's response to Q19 of the QAR (Appendix E):

*"The detection of any bycatches and/or discards of SBT is anchored on information and cross checking of data from logbooks, landing declarations and sales notes, observer reports, port and high-seas inspections, electronic observation (when available), self-sampling and port sampling (when available) and, when necessary, investigations of any evidence or clear suspicion related to a misreport or non-declared catch,"*

The EU cites observer reports, inspection reports and port sampling as possible additional sources to collect/verify (by)catch information. The CCSBT's Attributable Catch definition includes all sources of SBT mortality resulting from fishing activities. Therefore, the Review Team considered that it was pertinent to summarise how much of this verification information is known to be available for EU-flagged longliners that fished in the SBT distribution area within relevant RFMO Convention Areas.

## Authorisation of EU-flagged Longliners

With respect to the EU's comments on vessel authorisations on page 14 of its response to the draft QAR, the Review Team acknowledges that retrospective CCSBT-authorisations for Spanish vessels were received and accepted for both the 2019 and 2020 calendar years. However, for the 2018 calendar year, CCSBT records indicate that the EU CCSBT-authorized both Portuguese and UK-flagged vessels, but no Spanish longliners – please check the link on the CCSBT website: <https://www.ccsbt.org/en/content/ccsbt-record-authorized-vessels>.

## Supplementary Documents Submitted by the EU

The EU included thirteen new supporting documents in its response of 29/01/21. Many of the new documents provided were fishing vessel inspection reports (9) for a variety of Spanish longliners. The Review Team has examined these additional thirteen documents and provides some notes about them in **Attachment A** to this letter.

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<sup>105</sup> Refer to two new appendices added to the QAR: Appendices B and C

<sup>106</sup> Monitoring, Control and Surveillance

## Expected CDS Import Forms Not Yet Submitted by the EU (171 missing)

As part of the QAR report, the Review Team reported that of the 176 CDS forms expected to have been submitted to the CCSBT Secretariat by the EU since 2010, only 5 have been submitted to date, leaving 171 import forms that have not been submitted<sup>107</sup>.

The EU responded that:

*“In full compliance with our CCSBT obligations, we are open to investigate the mentioned cases provided that we receive a copy of the referred 171 CDS import forms.”*

To assist the EU with its investigation, the Review Team attaches a list of the 171 outstanding CDS forms referred to in the QAR report as an Excel attachment to this correspondence<sup>108</sup>. Most of the missing forms are import copies of Australian REEFs<sup>109</sup> to Germany<sup>110</sup>.

## Additional Remarks

The Review Team wishes to:

- Thank the EU for clarifying that there is no requirement for imports of aquaculture products into the EU to be accompanied by EU Catch Certificates. In this respect, the Review Team has concerns about whether it is clear that CCSBT Catch Certificates must travel with Australian farmed SBT<sup>111</sup> and then be submitted to the CCSBT by any EU importers of this partially farmed product, and
- Acknowledge the EU’s general remark that:  
*“... the report identifies some issues for which specific measures are required to further improve the ability of the EU to meet its CCSBT obligations. The most relevant one is the CDS for which we are taking various actions to address the obligations of this specific Resolution.”*

## Final Revised QAR Report

As mentioned above, the Review Team has revised elements of the draft QAR report where it considered it appropriate to do so and has now finalised the report.

Revisions can be found in the following key areas:

- Various tracked text revisions to the Executive Summary, Introduction and Methodology;
- Various tracked revisions throughout the report body to clarify and/or correct information and/or to take into account additional information provided by the EU in its response to the draft QAR – many of these revisions take into account the additional information provided about Port and Flag State inspections;
- Addition of Appendix B - the EU’s commitment on becoming a Cooperating Non-Member (CNM);

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<sup>107</sup> Refer to section 3.2.12 of the QAR

<sup>108</sup> This list was provided by the CCSBT Secretariat

<sup>109</sup> REEFs are Re-export or Export after Landing of Domestic Product Forms. Australia submits all REEFs (and CMFs) to the CCSBT Secretariat as standard Excel spreadsheets rather than as scans of the original forms, therefore any scanned copies of relevant REEFs would need to be requested directly from Australia

<sup>110</sup> All the Australian REEFs are for SBT originally wild-caught as juveniles and then farm-fattened

<sup>111</sup> Australian farmed SBT is originally wild-caught juvenile SBT subsequently fattened in an aquaculture facility

- Addition of Appendix C - EU exchange of letters confirming it as a Member of the EC);
- Amendment of Appendix E (previously Appendix C) – a list of the nine additional potentially pertinent documents provided by the EU in its correspondence of 29/01/2021 was added to the end of this Appendix;
- Addition of Appendix N - the EU’s response to the draft QAR dated 29/01/2021; and
- Addition of Appendix O – the Review Team’s 25/06/21 response to EU’s correspondence of 29/01/2021, *i.e.* this response).

### QAR Process: Next Steps

The next steps in the QAR Methodology which need to be completed are:

The EU documents any comments on the QAR outcomes which it wishes to be attached to the final QAR report and provides these to the Executive Secretary
The finalised QAR report including the EU’s comments on the QAR outcomes is submitted as a meeting document

As the penultimate step in the QAR process, the Review Team now invites the EU, if it so chooses, to provide any comments on the QAR outcomes to the Executive Secretary of the CCSBT.

Please note that the Executive Secretary of the CCSBT has advised that any remaining comments should be submitted within the same timeframe required for the submission of papers to the upcoming CCSBT Compliance Committee *i.e.* by 7 September 2021. However, as this is a large and complex report, the Executive Secretary further advised that it would be preferable for any final comments to be provided a few weeks earlier, *e.g.* by 24 August 2021, so that Members have more time to review the document.

The Review Team wishes to thank the EU for its participation in the QAR Review process and to acknowledge the additional work this has entailed for EU officials. The Review Team found that this was a challenging QAR to conduct since many of the CCSBT obligations being assessed were not originally developed to take into account the nature and extent of the EU’s participation in the SBT fishery.

We sincerely hope that the EU finds this report to be a valuable resource as it continually works to improve its fisheries management systems and processes.

Best Regards,



Stan Crothers,  
(for QAR Review Team).

## Attachment A

### Additional Documents Provided to the Review Team by the EU on 29/01/21

The Review Team has examined each of the additional thirteen documents provided by the EU on 29/01/21 which were labelled as:

1. 4-noruego 27-08-2019 PANAMA
2. 5-puntal de agueta27-08-2019 PANAMÁ
3. 2019\_06\_03 iotc COYO SÉPTIMO
4. 2019\_08\_05 iotc COYO TERCERO
5. 2019\_10\_28 PIR\_COYO TERCERO\_ESP\_20191028\_15512
6. BONDAÑA REPORTE DE INSPECCIÓN
7. Cópia de Lista Espécies DPE
8. ECCE HOMO DIVINO - REPORTE 20190423 (ANEXOS)
9. ECCE HOMO DIVINO - REPORTE 20190423
10. LISTADO DE VALIDADORES ESPAÑA ACTIVOS EN EBCD
11. NOVO XEIXAL REPORTE DE INSPECCIÓN
12. REG IUU competent authorities – PT
13. RUNO REPORTE DE INSPECCIÓN

The additional thirteen documents included three inspection reports (document nos. 1, 6 and 9 above) and one port entry request (document no. 8 above) for vessels that had either not fished in the SBT distribution area or which had no fish on board<sup>112</sup>. For document 2, the area of fishing is recorded as 'IATTC and other zones' so it is not completely clear where this vessel fished.

Taking the above information into consideration, the Review Team does not consider that documents 1, 6, 8 and 9 are pertinent to this QAR and therefore they are not included in the additional list of documents recorded at the end of Appendix E of the revised QAR.

For the remaining port inspection reports provided, it cannot be determined whether any of the longliners fished in the SBT distribution areas prior to being inspected, and therefore those documents have been included in the Appendix E list as they may potentially be pertinent to the QAR.

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<sup>112</sup> The vessel in document 1 was towed into port due to mechanical issues and had no fish on board. With respect to document 6, the inspected longliner has never been CCSBT-authorized and was recorded as having fished only within the IATTC area; with respect to documents 8 and 9 (request to enter port and port inspection report), this longliner was recorded as having fished in Area 87.1.4 which is off the west coast of Colombia, Ecuador and Peru and has a most southerly latitude of 18°20'S, which is not within the SBT distribution area.