

EXPLANATORY MEMORANDUM TO

THE SEA FISHERIES (INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS) (AMENDMENT) REGULATIONS 2024

2024 No. 439

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument makes provision in relation to the International Convention for the Conservation of Atlantic Tunas (“the Convention”), to which the United Kingdom is a contracting party.

2.2 The UK has an obligation under the United Nations Convention on the Law of the Sea (“UNCLOS”) to cooperate on the management of shared stocks through appropriate regional or sub-regional organisations. Tuna and tuna-like species are managed globally through Regional Fisheries Management Organisations; the Convention being one such example (“RFMOs”).

2.3 The United Kingdom was formerly subject to the requirements of the Convention as a Member State of the European Union. Following EU exit, the UK has become a contracting party to the Convention as an independent coastal State. This instrument updates and amends retained EU law to account for further requirements under the Convention and to remove ambiguity and unnecessary provisions.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. European Convention on Human Rights

5.1 The Minister of State for Food, Farming and Fisheries, the Right Honourable Mark Spencer MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Sea Fisheries (International Commission for the Conservation of Atlantic Tunas) (Amendment) Regulations 2024 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 As a contracting party, the UK has an obligation to implement measures (known as ‘recommendations’) adopted under the Convention. This instrument amends retained EU law to implement recommendations adopted under the Convention which have not yet been reflected in the relevant legislation to ensure the UK is meeting its international obligations. Additionally, this instrument also makes amendments to retained EU law to remove provisions which are unnecessary or to remove ambiguity in legislation which was not comprehensively updated at the point of EU exit.
- 6.2 This instrument makes amendments to the following retained EU law:
- 6.2.1 Council Regulation (EC) No 1936/2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (“Regulation 1936/2001”).
 - 6.2.2 Council Regulation (EC) No 1984/2003 introducing a system for the statistical monitoring of trade in swordfish and bigeye tuna within the Community (“Regulation 1984/2003”).
 - 6.2.3 Regulation (EU) No 640/2010 of the European Parliament and of the Council establishing a catch documentation programme for bluefin tuna *Thunnus thynnus* (“Regulation 640/2010”).
 - 6.2.4 Commission Delegated Regulation (EU) No 2015/98 on the implementation of the Union’s international obligations under the International Commission for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (“Regulation 2015/98”).
 - 6.2.4 Regulation (EU) 2016/1627 of the European Parliament and of the Council on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean (“Regulation 2016/1627”).
 - 6.2.5 Regulation (EU) 2019/1154 of the European Parliament and of the Council on a multiannual recovery plan for Mediterranean swordfish (“Regulation 2019/1154”).
 - 6.2.6 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 (“Regulation 2019/1241”).
- 6.3 In addition to amending retained EU law, this instrument also amends the Common Fisheries Policy and Aquaculture (Amendment etc) (EU Exit) Regulations 2019.

7. Policy background

What is being done and why?

- 7.1 The primary purpose of this instrument is to amend UK legislation to ensure that the UK is compliant with its obligations under the Convention. Some of the provisions amend retained EU law where the original EU legislation had not been updated prior to Implementation Period completion day to reflect new obligations on contracting parties to the Convention. In this regard, amendments were not made at the point of EU exit because the deficiency correction powers under the Withdrawal Act were not designed to be wide enough to change EU law that was out of date at the point of exit. Some of the provisions amend retained EU law which was up to date on Implementation Period completion day to reflect new obligations which have been adopted under the Convention since the UK left the EU and joined the Convention as an independent contracting party.

- 7.2 Whilst updating the relevant retained EU law, amendments have also been made to remove unnecessary provisions. In particular, provisions which served a purpose as EU law, but which are obsolete as retained EU law, such as requirements on Member States to submit information to the European Commission to ensure the Commission has the necessary information to submit to the Convention Secretariat. Furthermore, amendments have also been made to the relevant retained EU law to ensure clarity and enforceability of the relevant provisions. This is particularly the case in relation to provisions regulating the fishing of bluefin tuna. At the point of EU exit, the UK did not have an allocation of quota for bluefin tuna but since joining the Convention as an independent contracting party the UK has established an allocation of quota for this stock in line with the UK-EU Trade and Cooperation Agreement. As such, the opportunity has been taken to redraft some provisions to remove potential ambiguities and clarify how requirements will apply to UK fishing vessels fishing for, or incidentally catching, bluefin tuna in the Convention area. For completeness, offence, penalty, and enforcement provisions have been added directly to relevant retained EU law to avoid any potential ambiguity as to whether existing enforcement provisions would apply to the newly amended provisions.

Explanations

- 7.3 Regulation 1936/2001 laid down control measures applicable to fishing for certain stocks of highly migratory fish. These measures included provisions regulating the Convention area and regulating the farming of bluefin tuna. As farming does not form part of the UK's fishing activity for bluefin tuna (a point which is put beyond doubt in amendments to Regulation 2016/1627 below which prohibit such activity) the provisions relating to bluefin tuna farming are obsolete and have been deleted (see regulation 2).
- 7.4 Regulation 1984/2003 implemented the Convention requirement for a system for the statistical monitoring of trade in swordfish and bigeye tuna. Regulation 3 of this instrument amends Regulation 1984/2003 to ensure it correctly reflects the Convention requirement for a statistical document to accompany imports of swordfish and bigeye tuna into the UK. Amendments are made to the descriptions of fish captured by the Regulation; in particular, references to TARIC codes from the 1984 version of the EU's Combined Nomenclature are deleted and replaced with up-to-date references to commodity codes found in the UK's customs tariff. Other amendments are made for clarity and to ensure the amended provisions are enforceable.
- 7.5 Regulation 640/2010 implemented the Convention requirement for the use of a Bluefin Tuna Catch Documentation Scheme. Since the scheme was originally established, a new electronic scheme has been introduced and is now a mandatory requirement on contracting parties to the Convention. Regulation 4 of this instrument comprehensively updates Regulation 640/2010 to make use of the electronic Bluefin Tuna Catch Documentation scheme mandatory. Further amendments are made to ensure that the Regulation reflects the updated requirements contained in the relevant Convention recommendations, including the circumstances in which an old paper catch document may be used instead of the electronic system and to ensure that the new requirements are clear and enforceable. As above, amendments are also made to the descriptions of fish captured by the Regulation whereby references to TARIC codes from the 2010 version of the EU's Combined Nomenclature are deleted and replaced with up-to-date references to commodity codes found in the UK's customs tariff. The Windsor Framework (Enforcement etc.) Regulations 2023 (S.I. 2023/1056)

apply Northern Ireland enforcement provisions (with any necessary modifications) in respect of the application of Regulation 640/2010 to such consignments.

- 7.6 Regulation 2015/98 deals with the implementation of the UK's international obligations under the Convention and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries. Regulation 5 of this instrument amends Regulation 2015/98 to remove provisions relating to the interaction of the landing obligation and the requirements of the Convention. This is to remove duplication with the amendments made by this instrument to Regulation 2016/1627 (see below) whereby specific provisions relating to the interaction of the landing obligation and the requirements of the Convention have been included alongside the provisions to which they directly relate for greater clarity.
- 7.7 Regulation 2016/1627 implemented the Convention multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean. Since the recovery plan was introduced stocks of bluefin tuna have improved significantly, it has been replaced with a multiannual management plan. Regulation 6 of this instrument comprehensively updates Regulation 2016/1627 to ensure that it correctly reflects the UK's obligations under the latest Convention recommendations and, in particular, takes account of the UK's allocation of bluefin tuna catch quota (previously the UK was not allocated any bluefin tuna catch quota under the Convention as an EU Member State). The amendments ensure that relevant Convention requirements will be applied to UK fishing boats fishing for bluefin tuna under the new quota allocation. Provisions relating to bluefin tuna farming, including the use of bluefin tuna traps and cage transportation between traps and farms, are removed as this type of activity will not form part of the UK's approach to bluefin tuna. The amendments prohibit farming and the use of traps in UK waters or by UK vessels in the Convention area. Other amendments are made for clarity and consistency and to ensure that the new provisions are enforceable.
- 7.8 Regulation 2019/1154 developed a multiannual recovery plan for Mediterranean swordfish. Regulation 7 of this instrument revokes the substantive provisions of Regulation 2019/1154 as these relate to swordfish in the Mediterranean.
- 7.9 Regulation 2019/1241 sets technical measures for the conservation of fisheries resources and the protection of marine ecosystems. Regulation 2019/1241 already contains comprehensive provisions relating to the minimum conservation reference sizes for various fish species. Regulation 8 of this instrument amends Regulation 2019/1241 to insert the minimum conservation reference sizes for bluefin tuna specified under the Convention as it is clearer and more logical for all minimum conservation reference sizes to be specific in one Regulation rather than contained in individual items of retained EU law.

In addition to amending retained EU law, this instrument also amends the Common Fisheries Policy and Aquaculture (Amendment etc) (EU Exit) Regulations 2019 (S.I. 2019/753) (see regulation 9). The amendments remove provisions which are currently of no effect (the provisions in question made amendments to retained EU law which had been previously revoked) and are therefore deleted to avoid any confusion.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are no plans to consolidate legislation amended by this instrument.

10. Consultation outcome

10.1 A targeted consultation took place on the mandatory use of the electronic Bluefin Tuna Catch Documentation system by traders of Bluefin Tuna. The consultation lasted for 4 weeks and the Department for Environment, Food and Rural Affairs (“the Department”) consulted the registered users of this system. The response from those consulted was that the mandatory use of the electronic Bluefin Tuna Catch Document system was a good step towards increasing traceability of bluefin tuna.

10.2 The targeted consultation can be found on the Defra consultation website¹.

10.3 In addition, the Department has consulted with the devolved administrations and the Marine Management Organisation regarding the amendments made by this instrument.

11. Guidance

11.1 Guidance on the activities associated with Bluefin Tuna caught in the Convention area, by both commercial and recreational fishers, can be found on GOV.UK². This page will be updated to reflect any changes to the regulations by this instrument.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because of the predicted low-level impact on business and the low economic effects of the changes being applied.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses, however, there is no material change to the way they will operate.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the Department, the Marine Management Organisation, as well as the Devolved Administrations in relation to devolved matters, will monitor and review the impact of this instrument as part of their standard policy-making procedures.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Mark Spencer MP, Minister of State at the Department for Environment, Food and Rural Affairs, has made the following statement: “In my view a review provision is not appropriate given the minimal impact on business”.

¹ [ICCAT electronic Bluefin Tuna Catch Documentation Scheme - Defra - Citizen Space](#)

² <https://www.gov.uk/guidance/bluefin-tuna-in-the-uk>

15. Contact

- 15.1 Alice Cardy at the Department for Environment, Food and Rural Affairs Telephone: 07557065673 or email: alice.cardy@defra.gov.uk can be contacted with any queries regarding this instrument.
- 15.2 Colin Faulkner, Deputy Director for External Fisheries Negotiations & Trade, at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Mark Spencer MP, Parliamentary Minister of State at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.