

## V. IMPORTING, EXPORTING AND RE-EXPORTING HMS

NMFS regulations at 50 CFR 300 subpart M address importing, exporting, and re-exporting of the following HMS:<sup>31</sup>

- (1) Bluefin tuna,\*
- (2) Southern bluefin tuna,\*
- (3) Frozen bigeye tuna,\*
- (4) Swordfish,\* and
- (5) Shark fins.

\*For these HMS, fish parts other than meat (e.g., heads, eyes, roe, guts, and tails) may be imported without documentation.

Please note, if the above HMS were landed by a U.S. fishing vessel in a foreign port and are not processed before being transported into the United States, the HMS are not considered an import, and the “first receiver” (i.e., U.S. dealer purchasing the product) must have a federal dealer permit, as described under the “Permits” section. In addition, the federal dealer must comply with the dealer reporting requirements as described under the “Dealer Reporting Requirements” section. If the HMS are landed by a U.S. fishing vessel in a foreign port and are processed from its original form before being transported into the United States, the HMS may be considered an import and an HMS International Trade Permit may be required.

### HARMONIZED TARIFF SCHEDULE

When imported or exported, products of the HMS listed above must be classified under the appropriate heading or subheading code from the Harmonized Tariff Schedule (HTS) of the United States. Importers of these products are required to use the most descriptive HTS code for the product that is traded.

The HTS was updated in 2012 and is updated approximately every five years. In order to obtain the current HTS and to check for any changes please refer to the International Trade Commission’s website at [http://www.usitc.gov/2015\\_htsa\\_basic\\_edition.htm](http://www.usitc.gov/2015_htsa_basic_edition.htm) by chapter/index.htm.

The HTS codes (as updated in 2012):

| Highly Migratory Species                         |   | 2012 HTS Code |
|--|---|---------------|
| <b>Bluefin Tuna<br/>(Atlantic &amp; Pacific)</b> | Live  | 0301.94.01.00 |
|  | Fresh or chilled  | 0302.35.01.00 |
|  | Frozen Atlantic   | 0303.45.01.10 |
|  | Frozen Pacific  | 0303.45.01.50 |
| <b>Bluefin Tuna,<br/>Southern</b>                | Live  | 0301.95.00.00 |
|  | Fresh or chilled  | 0302.36.00.00 |
|  | Frozen  | 0303.46.00.00 |
| <b>Bigeye Tuna</b>                               | Frozen  | 0303.44.00.00 |
|  | Frozen fillets and other fish meat                            | 0304.87.00.00 |
| <b>Swordfish</b>                                 | Fresh or chilled steaks                                       | 0302.47.00.10 |
|  | Fresh or chilled other  | 0302.47.00.90 |
|  | Frozen steaks   | 0303.57.00.10 |
|  | Frozen other  | 0303.57.00.90 |
|  | Fresh or chilled fillets                                      | 0304.45.00.00 |
|  | Fresh or chilled other meat                                   | 0304.54.00.00 |
|  | Frozen fillets  | 0304.84.00.00 |
|  | In bulk (frozen)  | 0304.91.10.00 |
|  | Other (i.e., frozen, fish meat other than fillets or in bulk) | 0304.91.90.00 |
| <b>Shark Fin</b>                                 |   | 0305.76.00.00 |

## HMS INTERNATIONAL TRADE PERMIT

Importers, exporters and re-exporters of Atlantic bluefin tuna, Southern bluefin tuna, Pacific bluefin tuna, frozen bigeye tuna, swordfish, and shark fins must obtain an HMS International Trade Permit (ITP).<sup>32</sup> ITP applications are available on the ITP homepage at:

<http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html>. Applications can also be obtained from the NMFS Permits Office, Southeast Regional Office, 263 13th Avenue, South, St. Petersburg, FL 33701, or by calling (727) 824-5326. NMFS will mail renewal notification and a prefilled application approximately 60 days prior to when the permit is scheduled to expire.

An **importer** is the principal party responsible for the import of product into a country. For imports into the United States, “importer” means the consignee as identified on entry documentation or any authorized, equivalent electronic medium required for release of shipments from the customs authority of the United States or the separate customs territory of a U.S. insular possession. If a consignee is not declared, then the importer of record is considered to be the consignee.<sup>33</sup>

An **exporter** is defined as the principal party in interest, meaning the party that receives the primary benefit, monetary or otherwise, of the export transaction. For exports from the United States, the exporter is the U.S. principal party in interest, as identified in Part 30 of title 15 of the CFR. An exporter is subject to all of the requirements outlined in subpart M of Part 300 of title 50 of the CFR, even if exports are exempt from statistical reporting requirements under Part 30 of title 15.<sup>34</sup>

A **re-export** is defined as the export of goods that were previously entered for consumption into the customs territory of a country.<sup>35</sup>

## ATLANTIC BLUEFIN TUNA TRADE

HMS trade regulations for bluefin tuna apply to bluefin from both the Atlantic and Pacific oceans. The International Commission for the Conservation of Atlantic Tunas (ICCAT) implemented a catch documentation program for bluefin tuna in 2008 to better account for landings of Atlantic bluefin tuna and to track bluefin tuna trade.

### Importing Atlantic bluefin tuna<sup>36</sup>

Each consignment of Atlantic bluefin tuna imported into the United States must be accompanied by an approved, original, complete, and validated bluefin tuna catch document (BCD) issued by the country of the vessel that harvested the bluefin tuna (one vessel per BCD). ***Please note that it is the importer’s responsibility to ensure that each BCD for an imported consignment is complete and accurate.*** Importers are prohibited from accepting an import that is not accompanied by an approved, original, complete, and validated BCD. The sections of the BCD that are completed for an imported bluefin tuna will

depend upon whether the bluefin tuna was caught from the wild immediately prior to landing, or transferred through a farming operation. Full instructions for completing a BCD are available on the HMS ITP homepage listed above.

The following links may be helpful to importers in determining the validity of a BCD:

ICCAT IUU Vessel List <http://www.iccat.int/en/IUU.asp>

ICCAT Record Number <http://www.iccat.int/en/vesselsrecord.asp>

The importer must sign the BCD at the bottom of the document and complete the Importer/Buyer's section of the document. The customs entry number and ITP (permit) number must be written in the upper right-hand corner of the document. ***A copy of the completed, signed document must be provided to NMFS within 24 hours of import.*** In addition, all necessary information must be included on a bi-weekly form which must be received by NMFS within 10 days after the end of the reporting period. Bi-weekly reports are available on the ITP homepage.

#### Exporting Atlantic bluefin tuna<sup>37</sup>

Each U.S. commercially-caught Atlantic bluefin tuna must be tagged by an Atlantic Tunas Dealer Permit holder with a NMFS-issued tag, and a BCD must accompany product for export or re-export. BCDs for tagged fish do not need to be validated.

BCDs should be created and filed using the electronic reporting system available at <https://www.st.nmfs.noaa.gov/neaabcd/external/>. Exporters must use their ITP number and associated information to create a NOAA BCD account. After an account has been created, exporters can log into the system to generate BCDs for exporting.

The exporter should fill out a separate BCD for each vessel's catch. If the export consignment contains bluefin tuna captured by more than one vessel, then a separate BCD must be completed for the catch from each vessel. All information should be entered following the system instructions. The exporter may need to contact the Atlantic Tunas Dealer permit holder who first received the bluefin to obtain vessel information such as the vessel's Atlantic Tunas Vessel Permit Number (ATVP No.) and the ICCAT Record Number (for vessels over 20 meters in length).

## Reporting to NMFS

### **Atlantic & Pacific Bluefin Tunas**

BCDs, Re-export Certificates, Bi-weekly Reports

### **Southern Bluefin Tuna, Frozen Bigeye Tuna, and Swordfish**

Statistical Documents, Re-export Certificates, Bi-weekly Reports

NMFS National Seafood Inspection Laboratory

3209 Frederic St.

Pascagoula, MS 39567

Phone: (228) 769-8964

[BFTreporting@noaa.gov](mailto:BFTreporting@noaa.gov)

## Reporting to ICCAT Secretariat

BCD (copy) for untagged re-exports of Atlantic Bluefin Tuna

ICCAT Secretariat

Corazón de Maria, 8

28002

Madrid, SPAIN

[info@iccat.int](mailto:info@iccat.int)

## Reporting to Importing Nations

BCD (copy) for untagged re-exports of Atlantic Bluefin Tuna

See HMS ITP website:

<http://www.nmfs.noaa.gov/sfa/hms/compliance/itp/index.html>

Paper export BCDs may also be used and can be downloaded from the HMS ITP website. If a paper document is used, the document number should be assigned using the following numbering convention: US Year–ITP Number (include numerals only)–sequential number. For example, an exporter with the ITP number “SE 10543” who is exporting the first bluefin for the year 2013 would use the following document number: US2013-10543-1.

The original document should accompany the shipment, and a copy of the document must be provided to NMFS within 24 hours of export. Relevant information from this document must be included on the “Bi-weekly Atlantic Bluefin Tuna Dealer Landings and Trade Report” available on the ITP homepage, which must be received by NMFS within 10 days of the end of the applicable reporting period. If the exporter also tagged the fish under their Atlantic Tunas Dealer permit, then only one bi-weekly report need be submitted. If the exporter does not hold a domestic Atlantic Tunas Dealer Permit, as long as the exporter provides the information required on the bi-weekly report to the Atlantic Tunas Dealer Permit holder who tagged the fish, and maintains a copy of the complete bi-weekly report submitted by the Atlantic Tunas Dealer Permit holder, then the exporter may forgo submitting a bi-weekly report to NMFS.

## Re-exporting Atlantic bluefin tuna<sup>38</sup>

Imported bluefin tuna that is to be re-exported from the United States must be accompanied by a bluefin tuna re-export certificate and the original BCD when it leaves the United States. The re-exporter must complete the re-export certificate according to the instructions on the back of the form, have it government validated, and attach it to the original BCD. For government validation, see “Validation Services” below. Re-export certificates are available on the HMS ITP homepage.

Re-exports of untagged fish must also be reported to the ICCAT Secretariat and to the competent government authority of the importing nation within five days of export by email, fax, or mail. See the HMS ITP website for country-specific addresses. However, the original re-export certificate must still accompany the shipment.

## PACIFIC BLUEFIN TUNA TRADE

Trade of Pacific bluefin tuna requires documentation similar to that required for trade of Atlantic bluefin tuna. Importers, exporters, and re-exporters must obtain an ITP,<sup>39</sup> and each import and export consignment must be accompanied by a BCD.<sup>40</sup> However, catch-related information is not required on the BCDs for Pacific bluefin tuna. The information required for Pacific bluefin tuna imports and exports on each BCD includes the area of harvest, product information, and trade information, *including government validation* (see “Validation Services” below). BCDs for U.S. exports of Pacific bluefin tuna are available on the HMS ITP website.

Like Atlantic bluefin tuna, each re-export of Pacific bluefin tuna from the United States must be accompanied by a re-export certificate and the original BCD, which must be validated prior to re-export.

Copies of import and export BCDs, and re-export certificates, must be provided to NMFS within 24 hours of international trade. Original BCDs for imports and bi-weekly reports must be received by NMFS within 10 days after the reporting period ends. The “HMS Trade Bi-Weekly Dealer Report” should be used for bi-weekly reports to NMFS. ***NOTE:*** *Pacific bluefin tuna BCDs and re-export certificates are not required to be submitted to the ICCAT Secretariat or the importing nation.*

## SOUTHERN BLUEFIN TUNA, FROZEN BIGEYE TUNA, AND SWORDFISH TRADE

HMS trade regulations for swordfish, Southern bluefin tuna, and frozen bigeye tuna apply to United States trade of product that originated from any ocean area. The United States has implemented the ICCAT SD programs along with a SD program adopted by the Commission for the Conservation of Southern Bluefin Tuna to monitor trade, and better understand the impact of the international market on these species. Since the reporting and recordkeeping requirements are similar for these species, they are addressed together below. Additionally,

for the import, export, and re-export of shark fins an ITP is required, but ITP reporting requirements are not required for shark fin trade.

#### Importing Southern bluefin tuna, frozen bigeye tuna, and swordfish<sup>41</sup>

Each consignment imported to the United States must be accompanied by an approved, original, species-specific, completed SD, issued and validated by the country of the vessel of harvest. Instructions for completing SDs for each species are available on the HMS ITP homepage. ***It is the importer's responsibility to ensure that each SD for an imported consignment is complete and accurate.*** Importers are ***prohibited*** from accepting an import that is not accompanied by an approved, original, species-specific, completed, and validated SD.

The following links may be helpful to importers in determining the validity of a SD:

ICCAT IUU Vessel List <http://www.iccat.int/en/IUU.asp>

ICCAT Record Number <http://www.iccat.int/en/vesselsrecord.asp>

The importer must sign the SD at the bottom of the document and complete the Importer/Buyer's section of the document. A copy of the completed, signed document must be provided to NMFS within 24 hours of import. All necessary information relative to the import must be included on a bi-weekly form submitted to NMFS (see "Addresses" section below) which must be received within 10 days of the end of the reporting period.

Swordfish may only be imported whole or in pieces that weigh at least 33 lb.<sup>42</sup>

#### Exporting Southern bluefin tuna, frozen bigeye tuna, and swordfish<sup>43</sup>

Statistical documents (SDs) for use in exporting these species are available on the HMS ITP homepage. All information should be entered following the instructions on the back of the form. Please note that for swordfish or bigeye originating from the Pacific or Indian oceans, the description of fish and exporter certification are not required. All export documents must be government validated (see "Validation Services" below).

The original document should accompany the shipment, and a copy of the document should be provided to NMFS within 24 hours of export. Relevant information from this document should be included on the "HMS Trade Bi-Weekly Dealer Report" and received by NMFS within 10 days of the end of the applicable reporting period.

#### Re-exporting Southern bluefin tuna, frozen bigeye tuna, and swordfish<sup>44</sup>

The SD that accompanied the import is the only documentation required to re-export an imported consignment from the United States that has not been subdivided or consolidated with another consignment. The re-exporter should ensure that the intermediate importer certification is completed as required and send the original statistical document with the re-exported consignment. A copy

of the SD must be received by NMFS within 24 hours of re-export. If an import has been subdivided or consolidated with another consignment, then a re-export certificate must be prepared. Re-export certificates are available on the HMS ITP website. The re-exporter must complete the re-export certificate following the instructions on the reverse side of the document, contact NMFS to have it validated, and attach it to the original SD to accompany the consignment. All necessary information relative to the re-export must be included on a bi-weekly form submitted to NMFS at the address indicated below, and received within 10 days of the end of the reporting period.

#### **GOVERNMENT VALIDATION<sup>45</sup>**

Government validation is available 24 hours a day, seven days per week. To obtain validation, fax documents to (866) 252-3751. The document must be complete, and fax and phone numbers must be included. Documents will be faxed back within approximately two hours. If there is a delay, please contact the NMFS validating official at (843) 724-6425. Please note that assistance in preparing a complete document is only available during business hours at the following phone number: (228) 769-8964.

NMFS regulations also provide for validation by non-government entities, once the entities have been authorized as validating officials by NMFS. To apply for status as a validating official, please submit a request in writing to: HMS Management Division, NMFS, 55 Great Republic Drive, Gloucester, MA, 01930. The request must specify the following information:

- 1) Names, addresses, and telephone/fax numbers of individuals who would perform validation;
- 2) Procedures to be used to notify NMFS of validations; and
- 3) An example of the stamp or seal to be applied.

NMFS will then make a determination and notify the applicant if they are granted an authorization as a validating official.