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GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

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IMPLEMENTATION OF THE INTERNATIONAL PLAN OF ACTION TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING AND ITS RELATIONS AND EFFECTS ON THE MANGEMENT OF FISHING CAPACITY IN THE MEDITERRANEAN

INTRODUCTION

1. Illegal, unreported and unregulated (IUU) fishing activities occur in virtually all capture fisheries, whether they are conducted within areas under national jurisdiction or the high seas. Left unchecked, IUU fishing activities can completely negate the benefits of effective fisheries management.
2. A number of international fisheries instruments provided a framework for the elaboration of the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU).
3. This document describes the international instruments, with reference to the evolving role of Regional Fisheries Management Organizations (RFMOs). The activities of the General Fisheries Commission for the Mediterranean (GFCM) are considered in terms of their relationship to and potential effects of implementation of the IPOA-IUU, including as related to the IPOA on the Management of Fishing Capacity (IPOA-Capacity) and relevant instruments on fisheries management in the Mediterranean.

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THE INTERNATIONAL INSTRUMENTS – EVOLVING ROLE OF RFMOS AND PROVISIONS RELATING TO IUU FISHING

Background

4. The 1982 United Nations Convention on the Law of the Sea (“1982 UN Convention”), ratified by nineteen GFCM member countries,¹ broadened the role of regional fishery bodies and reinforced cooperation through or establishment of regional fisheries organizations. It included provisions for the later elaboration of the IPOA-IUU, such as flag State responsibility and the duty of non-nationals to comply with coastal State measures and laws.

5. Later, a number of international instruments were adopted, which highlighted the role of RFMOs. These include:

- 1995 United Nations Fish Stocks Agreement² (“UN Fish Stocks Agreement”)
- 1993 FAO Compliance Agreement³ (“Compliance Agreement”);
- 1995 FAO Code of Conduct for Responsible Fisheries (“Code of Conduct”);
- the International Plans of Action (IPOAs) elaborated under the Code of Conduct:
 - 1999 Incidental catch of seabirds in longline fisheries, (IPOA – Seabirds);
 - 1999 Conservation and management of sharks, (IPOA – Sharks);
 - 1999 Management of fishing capacity (IPOA – Capacity); and
 - 2001 Prevention, deterrence and elimination of illegal unreported and unregulated fishing, (IPOA – IUU).

6. The Code of Conduct and the IPOAs are voluntary. The other above-mentioned instruments are binding on parties that have ratified or adhered to them, but are also being implemented by many States that have not yet formally deposited their instruments of ratification. GFCM Members that have signed, ratified or adhered to these instruments are shown in Appendix 1.

The 1995 UN Fish Stocks Agreement

7. The UN Fish Stocks Agreement entered into force in 2001. Even before entry into force, its provisions have been widely used as a benchmark for State practice.

8. The Agreement sets out the central role of RFMOs as a mechanism through which States Parties should act to meet their obligations and exercise their rights, including implementation of conservation and management measures. In particular, Article 8 provides that where a competent RFMO exists, States should either become members, or agree to apply the organization’s conservation and management measures. This complements other provisions, including:

- only members of a RFMO, or States that apply its conservation and management measures, shall have access to the relevant fishery resources;
- transparency in the activities of RFMOs;
- strengthening existing organizations and arrangements;

¹ See Appendix 1.

² Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

³ Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.

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- monitoring, control and surveillance (MCS) by flag States providing for cooperation in enforcement, including:
 - duties of the flag State;
 - compliance and enforcement by the flag State;
 - international, regional and sub-regional cooperation in enforcement;
 - basic procedures for boarding and inspection;
 - port State measures.

9. If non-members do not cooperate in the conservation of the relevant fish stocks, members are to deter activities of vessels which undermine the effectiveness of the RFMO's conservation and management measures.

10. Many of these provisions provide the impetus for RFMOs to agree on specific measures relating to IUU fishing, including information and data requirements, establishment of registers, requirements for high seas fishing, landings, port inspection and transshipment, inspection and enforcement and cooperation with non-members.

The FAO Compliance Agreement

11. The FAO Compliance Agreement entered into force in April 2003, and had been accepted by six GFCM members. It concerns high seas fishing, and calls upon countries to take effective action, consistent with international law, to deter the reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas.

12. It assigns the primary role of coordination to FAO but also calls for cooperation by parties through RFMOs. It has provisions relating to the failure to exercise flag State responsibility, a major cause of IUU fishing. Parties are required to encourage non-Parties to accept the Agreement, adopt appropriate laws, and to cooperate so as not to undermine conservation and management measures.

The FAO Code of Conduct for Responsible Fisheries

13. The development of the Code of Conduct occurred over the same time period as that of the Fish Stocks Agreement, and closely tracks the latter's provisions and enhances those of the Compliance Agreement. The Code extends to all fisheries and to fisheries-related matters. RFMOs are among the agencies tasked to implement the Code.

14. The Code sets out the duties of all States, flag States and port States with respect to fishing operations. The Code makes numerous references to the role of RFMOs in establishing a responsible international fisheries regime.

International Plans of Action: Capacity and IUU Fishing

15. All IPOAs elaborated within the framework of the Code of Conduct refer to the role of RFMOs. The 2002 World Summit on Sustainable Development identified actions that are required at all levels to achieve sustainable fisheries, especially to urgently develop and implement national, and, where appropriate, regional plans of action, to put into effect the IPOA – Capacity by 2005 and the IPOA – IUU by 2004.

16. The linkage between fleet overcapacity and IUU fishing was precised at the Twenty-fifth Session of the Committee on Fisheries (COFI) in 2003⁴, which endorsed the convening of a Technical Consultation in 2004 to review progress and promote the full implementation of the IPOA-IUU and the IPOA-Capacity.

⁴ Some members of COFI stated that this relationship was exacerbated by the payment of government subsidies to industry.

IPOA - Capacity

17. The UN General Assembly adopted a Resolution in 2003 that encouraged States, through RFMOs as appropriate, to implement the IPOAs, on sharks, seabirds and capacity.

18. The objective of the IPOA-Capacity is for States and RFMOs to achieve an equitable and transparent management of fishing capacity. Urgent actions needed to implement the Plan are specified, and include assessment and monitoring of fishing capacity, preparation and implementation of national plans of action (NPOAs). The IPOA–Capacity incorporates many actions similar to those in the IPOA-IUU, complements the international fisheries instruments, and emphasizes the importance of reliable fishery fleet statistics.

19. It can be noted that FAO collects global data on fishery fleets and has established a data base, the High Seas Vessels Authorization Record (HSVAR). The HSVAR implements requirements in the Compliance Agreement for flag States to report on vessels they have authorized for high seas fishing⁵.

20. The Twenty-fifth session of COFI was informed of a wide range of members' actions to address fleet capacity-related problems. A few Members indicated that they have developed their NPOAs-Capacity while other Members have partially done so.

21. Adoption of measures designed to reduce and control fishing effort is one of the basic tools for the management of Mediterranean multi-species, multi-gear fisheries. On an ongoing basis, the GFCM implementation of fishing effort control, through the tasks of its Scientific Advisory Committee (SAC), includes the following activities closely related to assessing fishing capacity:

- defining indicators of sustainability (economic and social indicators; biological reference points; environmental benchmarks);
- identifying key shared fisheries and priority species for conservation purposes;
- consolidating a regional statistical base;
- definition of structure and parameters, including for artisanal fisheries, to express fishing effort and establishment of fleet segmentation;
- defining geographical management units/sub-areas (GSAs) and operational units (OUs) for major shared fisheries.

22. In an early initiative, the GFCM adopted⁶, at its Twenty-first Session (1995), Resolution 95/4 which called upon members to prepare a list of fishing boats operating from ports in the Mediterranean and requested the Secretariat to establish a common data base on existing fleets of fishing vessels operating outside national jurisdiction. The Resolution was implemented for a time with the support of CopeMed and reconsidered at the Twenty-fourth Session (1999), which recognized it was still valid, but not fully complied with. Implementation was thought essential for the work of SAC.

23. At its Twenty-seventh session (2002), the Commission requested SAC to monitor and fine tune fleet segmentation to support an update of the inventory of OUs generating catches of shared stocks, as a basis for monitoring fleet capacity. GFCM also encouraged Members to adopt measures aimed at adjusting fishing effort, and to rationalize exploitation on the basis of SAC advice.

⁵ Canada, the USA, Japan, Norway and the European Union have yet provided vessel authorization data to HSVAR.

⁶ Taking into consideration the advice of an Ad hoc Meeting of Experts on the Application of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (La Valette, Malta, 6-8 March 1995).

24. Some issues on capacity are linked to the IPOA-IUU, especially those relating to avoidance of economic support and requirements for fishing vessel registration.

IPOA – IUU

25. The IPOA-IUU is a current strong forum of high-level attention. Two supportive UN General Assembly Resolutions were adopted in 2003. One urged States to take all necessary steps to implement the IPOA-IUU, including through relevant RFMOs. The other urged States to develop and implement national and regional plans of action by 2004.

26. The objective of the IPOA-IUU is to prevent, deter and eliminate IUU fishing by providing all States with a “toolbox” of comprehensive, transparent and effective measures by which to act, including through RFMOs. The IPOA definition of IUU fishing is in Appendix 2. The common thread is that IUU fishing may be said to occur in violation of – or at least with disregard for – applicable fisheries rules, whether adopted at the national, regional or international level.

27. The IPOA-IUU sets out the responsibilities of all States and flag States, measures to be taken by coastal States and port States, and internationally agreed market related measures. It refers also to responsibilities and measures of States acting through RFMOs, and of States that are not members of RFMOs. The measures are integrated, and should be applied in accordance with international and other applicable law.

28. To support the implementation of the IPOA-IUU, FAO has published Technical Guidelines, which, *inter alia*, discuss ways for RFMOs to control IUU fishing with their other basic missions and spell out possible strategies for dealing with IUU fishing. Strategies should take into account the point that inability to agree on equitable access can contribute to IUU fishing.

29. The Twenty-fifth session of COFI was also informed of a wide range of measures taken by members to deter IUU fishing. Some Members indicated that they would take steps in the near future to finalize their NPOAs-IUU while others indicated that the plan would be completed before 2004. COFI, however, expressed concern about the continuing high and growing incidence of IUU fishing and the lack of effective implementation of the IPOA-IUU. Many Members from developing countries indicated that a lack of capacity constrained implementation⁷.

STATUS OF IMPLEMENTATION OF THE IPOA-IUU IN THE MEDITERRANEAN

Consideration of IUU fishing in the GFCM area

30. IUU fishing is not a new issue for GFCM, and has been addressed, *inter alia*, in the following contexts:

- the (former) Committee on Fisheries Management emphasised the need to take measures to make available information on fishing boats operating in the Mediterranean under flags of States not members of the GFCM or of the International Commission for the Conservation of Atlantic Tuna (ICCAT) (1994);
- GFCM requested all States without distinction, whose fishing vessels operate in international waters in the Mediterranean, to provide information on these vessels to its Secretariat (1995);

⁷ To address this, FAO is planning a series of regional workshops with the objective of developing national capacity so that countries will be better placed to elaborate their NPOAs and, as a result, meet the requirements of the IPOA-IUU.

- development of a control scheme concerning the activities of vessels fishing under flags of convenience in the Mediterranean was suggested (2000);
- GFCM is implementing a regional project to help countries raise the required minimum standard in fisheries statistics, MedFisis, which foresees the establishment of a Vessel Register.

31. In a closely related context, there are currently suggestions by some Members on the definition of a methodology enabling the GFCM to develop a control scheme, including to fight against IUU fishing, which would be adapted to the specific characteristics of the Mediterranean.⁸ In this regard, management measures reported by ICCAT will be relevant, given the robust GFCM/ICCAT collaboration.

32. ICCAT reported the following measures aimed at curbing IUU activities to the Twenty-fifth session of GFCM (2000), which seemed to have proved effective in reducing IUU activities, as follows:

- a reporting/sighting scheme to detect illegal fishing and vessels;
- a system to monitor imports, landings and transshipments of tunas by IUU vessels;
- identification and publication of a list of alleged IUU vessels;
- discouraging the purchase of IUU fish;
- contacts with flag states of IUU vessels; and
- non-discriminatory, trade restrictive measures.

33. The Capture Database for the GFCM area, maintained at FAO, actually shows a decrease in reported catch to 396 tonnes in 2000 from 5,685 tonnes in 1996, indicating but not identifying IUU fishing information. Likewise, the FAO HSVAR contains information from a limited range of countries. The ICCAT “List of Large-Scale Longline Vessels Believed to be Engaged in IUU Fishing Activities in the ICCAT Convention Area and Other Areas” lists 378 vessels, a majority being FoC vessels, but only indicates the area transshipped, rather than fished.

34. Indeed, a major constraint is the difficulty of identifying and quantifying IUU fishing activities. This could be partly linked to concerns about existing weaknesses in fisheries management in the Mediterranean, including uneven data submission by GFCM members, need for an operational integrated database, uncertainties in stock evaluations, limited monitoring (of fishing effort as well as fisheries activities), control (of fishing capacity) and surveillance/enforcement and unbalanced institutional capacity of Members.

Adoption of National Plans of Action (NPOAs) and other instruments by GFCM Members

35. Spain appears as the only Member reported to have prepared an NPOA-IUU. The Plan refers to national regulations relating to flags of convenience and non-cooperating parties in RFMOs. In its proposed programme of new measures, the NPOA suggests it would be useful to draw up lists of vessels and States involved in IUU fishing, complemented by an information system enabling the continuous updating of information.

36. Although, not “national” *stricto-sensu* and only directly applicable to the EU members of GFCM, the conclusions and measures on IUU Fishing adopted by the EU Fisheries Council are worth noting.

37. The EU Council adopted the following conclusions on IUU fishing in 2002, in which the European Commission (EC) is urged to actively exercise its competences with regards to EU

⁸ For example: In section 3.5 of the the 2002 EU Community Action Plan for conservation and sustainable exploitation of fisheries resources in the Mediterranean Sea under the Common Fisheries Policy, which was presented to the Commission at its Twenty-seventh Session.

member States and in international fora, especially among the RFMOs, in order to attain specific objectives, including:

- elaborate registers of authorised vessels and lists of unauthorised or illegal vessels in RFMOs;
- draw up lists of states or territories that do not cooperate with the RFMOs, which might be subject to transparent and non-discriminatory trade measures;
- measures of control over nationals and Community residents who use flags of convenience as a means to evade those measures of regulation and conservation that have been established;
- implement monitoring, control and surveillance programmes in each RFMO;
- identify and quantify illegal catches, and determine the origin of these catches in order to act before the corresponding flag State;
- implementation of regimes of classification or documentation regarding fish species that do so require, as an additional measure of international control;
- definition of the rights and obligations of the Port State concerning the access of fishing vessels to port facilities;
- provide assistance for developing countries to fulfil the commitments they have to undertake in relation with the IPOA-IUU.

38. In addition, the 2002 EC Community Action Plan for conservation and sustainable exploitation of fisheries resources in the Mediterranean Sea under the Common Fisheries Policy, approved by the EC Council, concludes that the number of shared fisheries already identified justifies common action to be taken for those fisheries both at Community and international levels. It however recognizes that a major constraint to control and enforcement of Mediterranean fisheries stocks are the artisanal nature of the Mediterranean fishing vessels, with 80% being smaller than 12 m in length and the numerous small landing sites where fish are for the most part marketed by direct sale.

39. In this context, successful implementation of the IPOA-IUU would depend *inter alia* on the effectiveness of national management systems and institutions, and strong regional collaboration and cooperation in management and enforcement. The current features of Mediterranean fisheries indicate that for such conditions to materialize, urgent strengthening of regional cooperation is still needed, to be built within an integrated and holistic sustainable fisheries management framework for the Mediterranean as a whole.

RFMOs IMPLEMENTATION OF THE IPOA-IUU

40. The IPOA-IUU addresses actions to be taken by RFMOs both indirectly and directly. Indirect references appear in the objective and principles of the IPOA-IUU, National Plans of Action, cooperation between States, port State measures, internationally agreed market-related measures and reporting. The areas relating directly to RFMOs include those set out below. A summary description is elaborated in Appendix 3.

- compliance with RFMO policies and measures;
- measures on IUU fishing;
- compilation and dissemination of information;
- objectives of institutional and policy strengthening;
- cooperation with non-contracting parties;
- failure to ensure flag vessels/nationals do not engage in IUU fishing activities.

41. Over half of the RFMOs reported to COFI in 2003 on measures that have been taken to implement the IPOA-IUU. Following is a list of measures or actions that RFMOs can take, or have taken, to prevent, deter and eliminate IUU fishing:

- collect and disseminate information relating to IUU fishing;
- establishment of vessels registers, including “blacklists” and “white lists”;
- coordination and cooperation with non-members and with RFMOs and other organizations;
- identify vessels that are engaging in IUU fishing and coordinate measures against them;
- identify States whose vessels are engaging in IUU fishing and can urge identified States to rectify such behaviour;
- call on their members to take action against vessels without nationality that are fishing in the relevant region;
- adopt rules to ensure that vessel chartering arrangements do not lead to IUU fishing;
- adopt port inspection schemes, restrictions on transshipment and landings;
- develop evidentiary criteria for a presumption that fishing vessels flying the flag of a non-Contracting Party have carried out IUU fishing activities in the relevant Area of Competence;
- adopt MCS schemes involving boarding, inspection and VMS;
- call on their members to address excessive fleet capacity;
- adopt catch certification and/or trade documentation schemes;
- adopt other market-related measures to combat IUU fishing;

42. The resolutions and decisions taken by some RFMOs in relation to IUU fishing (further detailed in the text and Annex 5 of document GFCM/XXVIII/2003/Inf.6) cover a range of areas. Of the RFMOs surveyed, several had taken decisions in respect of non-parties,⁹ establishing criteria for a presumption of IUU fishing¹⁰ and listing IUU fishing vessels, including those presumed to be fishing.¹¹ From a positive viewpoint, the practice of “white” listing, or establishing a record of vessels authorized to operate in the Area, is increasing,¹² and procedures for attaining the status of cooperating non-party have been agreed.¹³

43. Information bases on IUU fishing have been enhanced by resolutions relating to information on IUU catches¹⁴ transshipments and vessel sightings,¹⁵ establishment of a port inspection programme¹⁶ and exchange of information.¹⁷

⁹ CCSBT, IATTC, NEAFC, NAFO.

¹⁰ ICCAT, NEAFC, NAFO.

¹¹ CCSBT, IOTC, ICCAT.

¹² IOTC, IATTC.

¹³ IATTC.

¹⁴ IATTC.

¹⁵ ICCAT, IBSFC.

¹⁶ IOTC.

¹⁷ IOTC, ICCAT.

44. Measures against flag of convenience vessels have been adopted,¹⁸ as well as general requirements for fishing vessels including management standards¹⁹ and conditions for flagging.²⁰ In trade-related issues, catch documentation/trade information schemes have been adopted,²¹ and a process and criteria for IUU trade restrictive measures has been identified.²² A recommendation has been adopted to facilitate information on vessels transferring flag to avoid trade measures²³

45. Targeting businesses involved in IUU fishing, measures have been adopted to prevent laundering of catches by IUU vessels²⁴ to take actions against businesses involved in IUU fishing²⁵ and other cooperative actions with countries where the businesses are based.²⁶

46. Working groups have been established to address more effective measures against IUU fishing.²⁷

47. It seems that the challenge for some RFMOs consists less of the development and adoption of policies and measures against IUU fishing, than their implementation among members.

MEDITERRANEAN FISHERIES: POSSIBLE OPTIONS FOR IMPLEMENTING THE IPOA-IUU AND POTENTIAL EFFECTS ON FISHERIES MANAGEMENT

Mediterranean management features related to IUU fishing

48. Clear features of existing fisheries management in the Mediterranean relating to IUU fishing still need to be established. CopeMed for the western Mediterranean and AdriaMed for the Adriatic Sea²⁸, have reviewed national laws and regulations related to fisheries management. These reviews provide preliminary comparative information for assessing needs towards implementing the IPOA-IUU and other relevant international instruments.

49. The CopeMed Review shows great variances in marine fisheries management frameworks and measures. For the most part commercial fishing within areas of national jurisdiction is reserved for national flag vessels, and only four countries require authorizations for national fishing vessels to fish beyond areas of national jurisdiction. Access agreements are usually required for non-national vessels. It provides for a comparative table on fishing effort showing by country a variety of measures, including limitation of fishing licenses and effort by areas/seasons, and management by quota or total allowable catch (TAC). All States have regulations on minimum size of fish and gear or fishing methods. Most regulate the length, tonnage and power of vessels.

¹⁸ IOTC, CCAMLR, WCPFC.

¹⁹ ICCAT.

²⁰ CCAMLR.

²¹ CCAMLR, CCSBT.

²² ICCAT.

²³ ICCAT.

²⁴ IOTC, ICCAT.

²⁵ ICCAT.

²⁶ ICCAT.

²⁷ ICCAT, NAFO.

²⁸ The Reviews respectively cover: Algeria, Morocco, Tunisia, Libya, Malta, Italy, France, Spain and the European Union.; and Albania, Croatia, Italy and Slovenia.

50. The AdriaMed Review describes *inter alia* access regimes, conservation and management measures and MCS. It shows a wide variety of practices with respect to licensing for the various sub-sectors, effort and gear limitation and fisheries reserves, and for MCS purposes, registers, landing requirements, data collection, and observers.

51. These Reviews indicate the need for more focused studies, encompassing all the GFCM area, and based on a checklist of areas of national law needed to implement the IPOA-IUU. An example of such a check-list giving emphasis to assessing MCS capacities and schemes is attached as Appendix 4.

52. MCS in the GFCM region is currently carried out primarily on a national basis. On a regional basis, ICCAT measures would also apply to relevant species, and while GFCM may consider developing such measures as a control scheme, its MCS-related activities are limited as described above.

53. From the perspective of the GFCM-EU members, a 2000 report entitled “Control and Surveillance Operations of Member States” reviewed the programme of EC financial contribution towards control and surveillance by its member States, 1996 – 2000.²⁹ The report recommended that the focus for the next five-year programme be on integration, including the following examples:

- integration of data handling and data comparisons between different elements of national and regional MCS systems;
- integration of control and enforcement infrastructures within each member State;
- further integration of VMS;
- increased integration of land-based monitoring systems with more fishing monitoring systems;
- increased penetration of product monitoring along the supply chain, particularly across borders, and integration of such information with existing data comparisons;
- further promotion of joint activities – in training, the establishment of common standards and procedures, the design and implementation of joint control activities, and joint research and development projects.

Possible process and considerations for implementation

54. The process to implement the IPOA-IUU and relevant parts of the IPOA-Capacity in the GFCM region in respect of “fishing activities” (including activities relating to IUU fishing, such as landings, transshipment and marketing) could involve a two-track approach.

- Regional priorities and actions for GFCM could be identified;
- In parallel, and within the context of GFCM priorities and strategies, action could be undertaken at national levels.

55. Decisions would need to be taken as to the appropriate mechanisms for the approach, such as expert consultations, technical consultations, working groups and the development of policies, plans and strategies. Potential cooperation and collaboration could be identified in respect of other RFMOs, bodies, organizations and States (including non-members).

²⁹ It can be noted that the programme of support for the EU countries, valued at €205 million, committed almost two thirds to the funding of “heavy” control equipment – large patrol vessels and aircraft. This compares with a ten per cent allocation to inshore patrols and land vehicles, nearly ten percent to the programme of satellite tracking and monitoring, and a similar amount to upgrading the data-processing capacities of the control services of member States. Only 2 per cent and one per cent respectively was allocated to communication equipment and training.

CONCLUSION

56. Implementation through GFCM of the IPOA-IUU and related area of the IPOA-Capacity could yield a number of positive effects. An overall objective would be to restore the health of the Mediterranean fish stocks, and achieve long-term conservation and sustainable use of the resources. Depending on the measures and actions agreed, such implementation could promote: improved and integrated fisheries management; enhanced cooperation among GFCM members, as well as between GFCM, other RFMOs, States and entities; and strengthened implementation of flag State responsibility. It could also serve as a focus for development/technical assistance.

57. Effective implementation of the IPOA-IUU and relevant parts of the IPOA-Capacity would depend on the commitment of GFCM members, and long-term planning.

SUGGESTED ACTION BY THE COMMISSION

58. The Commission is invited to evaluate the rationale for and general implications of the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing as a tool of responsible fisheries management in the Mediterranean. The Commission may consider further identifying steps and approaches to be followed if it wishes to pursue addressing this issue.

APPENDIX 1

GFCM MEMBERS – INTERNATIONAL FISHERIES INSTRUMENTS
Signatures, Adherences, Ratifications

August 2003

	1982 UN CONVENTION	1993 FAO COMPLIANCE AGREEMENT	1995 UN FISH STOCKS AGREEMENT
Albania	23 June 2003		
Algeria	11 June 1996		
Bulgaria	15 May 1996		
Croatia	5 April 1995		
Cyprus	12 December 1998	19 July 2000	25 September 2002
European Community	1 April 1998	6 August 1996	Member competence ³⁰
Egypt	26 August 1983	14 August 2001	
France	11 April 1996		
Greece	21 July 1995		Signed
Israel			Signed
Italy	13 January 1995		Signed
Japan	20 June 1996	20 June 2000	Signed
Lebanon	5 January 1995		
Libya	Signed		
Malta	20 May 1993		11 November 2001
Monaco	20 March 1996		9 June 1999
Morocco	Signed	30 January 2001	Signed
Romania	17 December 1996		4 August 1997
Serbia and Montenegro	12 March 2001		
Slovenia	16 June 1995		
Spain	15 January 1997		Signed
Syria		13 November 2002	
Tunisia	24 April 1985		
Turkey			

³⁰ The European Commission has indicated that it is expected that the instruments of ratification for its members will be deposited on 20 September 2003.

APPENDIX 2**DEFINITION OF IUU FISHING**

Illegal fishing refers to fishing activities:

- (1) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- (2) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
- (3) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

Unreported fishing refers to fishing activities:

- (1) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- (2) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

Unregulated fishing refers to fishing activities:

- (1) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- (2) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.³¹

³¹ The IPOA-IUU notes that “certain unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under” the IPOA-IUU.

**SUMMARY DESCRIPTION OF PARAGRAPHS IN IPOA-IUU ON
REGIONAL FISHERY MANAGEMENT ORGANIZATIONS**

<u>Paragraph Number</u>	<u>Summary Description of Paragraph</u>
78.	Compliance with RFMOs policies and measures, establishment of RFMOs: States should ensure compliance with and enforcement of relevant RFMOs policies and measures having a bearing on IUU fishing, and cooperate in the establishment of RFMOs in regions where none currently exist.
79.	Non-members: non-members are not discharged from their obligation to cooperate with RFMOs, and should agree to apply the conservation and management measures or adopt consistent measures, and ensure that vessels entitled to fly their flag do not undermine such measures.
80.	Measures on IUU fishing: States, acting through relevant RFMOs, should take action to strengthen and develop innovative ways to prevent, deter and eliminate IUU fishing. Consideration should be given to including the following measures: <ul style="list-style-type: none">• institutional strengthening;• development of compliance measures in conformity with international law;• development and implementation of comprehensive arrangements for mandatory reporting;• establishment of and cooperation in the exchange of information on vessels engaged in or supporting IUU fishing;• development and maintenance of records of vessels fishing in the area of competence of a relevant RFMO, including those authorized to fish and those engaged in or supporting IUU fishing;• development of methods of compiling and using trade information to monitor IUU fishing;• development of MCS, including promoting for implementation by its members in their respective jurisdictions, unless otherwise provided for in an international agreement, real time catch and vessel monitoring systems, other new technologies, monitoring of landings, port control, and inspections and regulation of transshipment, as appropriate;• development within a RFMO, where appropriate, of boarding and inspection regimes consistent with international law, recognizing the rights and obligations of masters and inspection officers;• development of observer programmes;• where appropriate, market-related measures in accordance with the IPOA;• definition of circumstances in which vessels will be presumed to have engaged in or to have supported IUU fishing;• development of education and public awareness programmes;• development of action plans; and• where agreed by their members, examination of chartering arrangements, if there is concern that these may result in IUU fishing.

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81. **Compilation and dissemination of information:** States, acting through relevant RFMOs should compile and make available on a timely basis, and at least on an annual basis, to other RFMOs and to FAO, information relevant to the prevention, deterrence and elimination of IUU fishing, including:
- estimates of the extent, magnitude and character of IUU activities in the area of competence of the regional fisheries management organization;
 - details of measures taken to deter, prevent and eliminate IUU fishing;
 - records of vessels authorized to fish, as appropriate; and
 - records of vessels engaged in IUU fishing.
82. **Objectives of institutional and policy strengthening:** Objectives should include enabling RFMOs to:
- determine policy objectives regarding IUU fishing, both internally and for co-ordination with other RFMOs;
 - strengthen institutional mechanisms as appropriate, including mandate, functions, finance, decision making, reporting or information requirements and enforcement schemes, for the optimum implementation of policies in relation to IUU fishing;
 - regularize coordination with institutional mechanisms of other RFMOs as far as possible in relation to IUU fishing, in particular information, enforcement and trade aspects; and
 - ensure timely and effective implementation of policies and measures internally, and in cooperation with other RFMOs and relevant regional and international organizations.
83. **Cooperation with non-contracting parties:** States, acting through RFMOs, should encourage non-contracting parties with a real interest in the fishery concerned to join and to participate fully. Where this is not possible, the RFMOs should encourage and facilitate the participation and cooperation of non-contracting parties. RFMOs should address access to the resource to foster cooperation and enhance sustainability in the fishery. States, acting through RFMOs, should also assist, as necessary, non-contracting parties in the implementation of paragraphs 78 and 79 of the IPOA.
84. **Failure to ensure flag vessels/nationals do not engage in IUU fishing activities:** When a State fails to ensure that its flag vessels or, to the greatest extent possible, its nationals, do not engage in IUU fishing activities, member States, acting through a relevant RFMO, should draw the problem to the attention of that State. If the problem is not rectified, members of the RFMO may agree to adopt appropriate measures, through agreed procedures, in accordance with international law.

**EXAMPLE OF CHECK-LIST
GIVING EMPHASIS TO ASSESSING MCS CAPACITIES AND SCHEMES**

- a) Identification of what constitutes “IUU fishing activities” in accordance with IPOA
- b) Requirements for fishing
 - Authorisation/licensing
 - Information
 - Reporting
 - MCS/VMS, including vessel, gear marking
 - Flag State responsibility
 - Charters
- c) Information collection, exchange
 - Procedures for collection and exchange of information
- d) MCS
 - Procedures for identification of IUU fishing activities
 - Registers – criteria and establishment of black lists, white lists, etc.
 - VMS
 - Boarding and Inspection
 - Observers
 - Transshipment, Landing requirements, inspections
 - Catch documentation
 - Reciprocal monitoring, surveillance and enforcement arrangements
- e) Sanctions
 - Identification of “serious offences” in accordance with Fish Stocks Agreement
 - Penalties by flag State
 - Evidentiary criteria for presumption of IUU fishing
 - trade, import/export measures
 - “long arm” jurisdiction agreements
- f) Non-Contracting Cooperating Parties
 - Identification
 - Rights
 - Obligations
- g) Cooperation with members, other RFMOs, organizations, States, etc.
 - Assistance to developing member States (e.g. for NPOAs, implementing legislation, etc.)
- h) Institutional Strengthening of GFCM