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GENERAL FISHERIES COMMISSION
FOR THE MEDITERRANEAN
COMMISSION GÉNÉRALE DES PÊCHES
POUR LA MÉDITERRANÉE



GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

Thirtieth Session

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**DRAFT EC PROPOSAL FOR RECOMMENDATIONS ON IUU
FISHING IN THE MEDITERRANEAN**

- I. Establishment of an IUU vessels list (black list)**
- II. Criteria for obtaining the status of Cooperatin Non-Contracting Party**
- III. Terms of reference for the creation of a GFCM Compliance Committee**
- IV. Data confidentiality policy and procedures**

I. DRAFT EC PROPOSAL ON GFCM RECOMMENDATION TO ESTABLISH A LIST OF VESSELS PRESUMED TO HAVE CARRIED OUT ILLEGAL, UNREPORTED AND UNREGULATED FISHING ACTIVITIES IN THE GFCM AREA

The General Fisheries Commission for the Mediterranean (GFCM),

RECALLING that the FAO Council adopted on June 23, 2001 an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU). This Plan stipulates that the identification of the vessels carrying out IUU activities should follow agreed procedures and be applied in an equitable, transparent and non-discriminatory way.

CONCERNED by the fact that IUU fishing activities in the GFCM area continue, and these activities diminish the effectiveness of the GFCM conservation and management measures.

FURTHER CONCERNED that there is evidence of a high number of vessel owners engaged in such fishing activities which have re-flagged their vessels to avoid compliance with GFCM management and conservation measures,

DETERMINED to address the challenge of an increase in IUU fishing activities by way of counter-measures to be applied in respect to the vessels without prejudice to further measures adopted in respect of flag States under the relevant GFCM instruments,

CONSIDERING the results of the Third Ministerial Conference on the Sustainable Development of Fisheries in the Mediterranean which was held in Venice from 25 to 26 November 2003.

CONSCIOUS of the need to address, as a matter of priority, the issue of large-scale fishing vessels conducting IUU fishing activities.

NOTING that the situation must be addressed in the light of all relevant international fisheries instruments and in accordance with the relevant rights and obligations established in the World Trade Organization (WTO) Agreement,

Adopts, in accordance with paragraph 1 (h) of Article III of GFCM Agreement that:

1. For the purposes of this recommendation the fishing vessels flying the flag of a non-Contracting Party are presumed to have carried out illegal, unreported and unregulated fishing activities in the GFCM Convention Area, *inter alia*, when a Contracting Party or Cooperating non-Contracting Party, presents evidence that such vessels:
 - a) Harvest species in the GFCM Area and are not registered on the GFCM list of vessels authorized to fish species in the GFCM Area;
 - b) Harvest Tuna or Tuna like species in the Convention Area, whose flag State is without quotas, catch limit or effort allocation under relevant GFCM conservation and management measures
 - c) Do not record or report their catches made in the GFCM Area, or make false reports;
 - d) Take or land undersized fish in contravention of GFCM conservation measures;
 - e) Fish during closed fishing periods or in closed areas in contravention of GFCM conservation measures;
 - f) Use prohibited fishing gear in contravention of GFCM conservation measures;
 - g) Tranship with vessels included in the IUU list;
 - h) Harvest species in the waters under the national jurisdiction of the coastal States in the GFCM Area without authorization and/or infringes its laws and

regulations, without prejudice to the sovereign rights of coastal States to make measures against such vessels;

- i) Are without nationality and harvest species in the GFCM Area and/or
 - j) Engage in fishing activities contrary to any other GFCM conservation and management measures.
2. Contracting Parties and Cooperating non-Contracting Parties, shall transmit every year to the Executive Secretary before July 15, the list of vessels flying the flag of a non-Contracting Party presumed to be carrying out IUU fishing activities in the GFCM Area during the current and previous years, accompanied by the supporting evidence concerning the presumption of IUU fishing activity.

This list shall be based on the information collected by Contracting Parties and Cooperating non-Contracting Parties.

3. On the basis of the information received pursuant to paragraph 2, the GFCM Executive Secretary shall draw up a draft IUU list and shall transmit it together with all the evidence provided to Contracting Parties and Cooperating non-Contracting Parties, as well as to non-Contracting Parties whose vessels are included on these lists before August 15 of each year. Contracting Parties and Cooperating non-Contracting Parties, shall transmit their comments, as appropriate, including evidence showing that the listed vessels neither have fished in contravention to GFCM conservation and management measures nor had the possibility of fishing species in the GFCM Area, before September 30 to GFCM.

Upon receipt of the draft IUU list, Contracting Parties and Cooperating non-Contracting Parties, shall closely monitor these vessels included in the draft IUU list in order to determine their activities and possible changes of name, flag and/or registered owner.

4. On the basis of the information received pursuant to paragraph 3, the GFCM Executive Secretary shall draw up a provisional list that he shall transmit 2 weeks in advance of the Commission Meeting to the Contracting Parties and Cooperating non-Contracting Parties, together with all the evidence provided.
5. Contracting Parties and Cooperating non-Contracting Parties, may at any time submit to the GFCM Executive Secretary any additional information, which might be relevant for the establishment of the IUU list. The GFCM Executive Secretariat shall circulate the information at latest before the annual Commission meeting to the Contracting Parties and Cooperating non-Contracting Parties, and to the non-Contracting Parties concerned, together with all the evidence provided.
6. The GFCM Compliance Committee shall examine, each year, the provisional list, as well as the information referred to in paragraphs 3 and 5. The GFCM Compliance Committee shall remove a vessel from the provisional list if the flag State demonstrates that:
- a) The vessel did not take part in any IUU fishing activities describes in paragraph 1, or
 - b) Effective action has been taken in response to the IUU fishing activities in question, including, *inter alia*, prosecution and imposition of sanctions of adequate severity.

7. Following the examination referred to in paragraph 6, the GFCM Compliance Committee shall submit to the Commission for approval, the provisional list of the vessels identified as carrying out IUU fishing activities in the GFCM Area.

8. On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU list, to take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the withdrawal of the registration or of the fishing licenses of these vessels, and to inform the Commission of the measures taken in this respect.

9. Contracting Parties and Cooperating non-Contracting Parties, shall take all necessary measures, under their applicable legislation:
 - a) So that the fishing vessels, the mother ships and the cargo vessels flying their flag do not participate in any transshipment with vessels registered on the IUU list;
 - b) So that IUU vessels that enter ports voluntarily are not authorized to land or tranship therein;
 - c) To prohibit the chartering of a vessel included on the IUU list;
 - d) To refuse to grant their flag to vessels included in the IUU list, except if the vessel has changed owner; and the new owner has provided sufficient evidence demonstrating the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel, or having taken into account all relevant facts, the flag Contracting Party or Cooperating non-Contracting Party, determines that granting the vessel its flag will not result in IUU fishing;
 - e) To prohibit the imports, or landing and/or transshipment, of any species from vessels included in the IUU list;
 - f) To encourage the importers, transporters and others sectors concerned, to refrain from transaction and transshipment of any species caught by vessels included in the IUU list;
10. The GFCM Executive Secretary shall take any necessary measure to ensure publicity of the IUU vessels list adopted by GFCM pursuant to paragraph 8, in a manner consistent with any applicable confidentiality requirements, and through electronic means, by placing it on the GFCM web site. Furthermore, the GFCM Executive Secretary shall transmit the IUU vessels list to other regional fisheries organizations for the purposes of enhanced cooperation between GFCM and these organizations in order to prevent, deter and eliminate illegal, unreported and unregulated fishing.
11. This recommendation shall apply initially to large-scale fishing vessels flying the flag of non-Contracting Parties. The Commission shall, at its annual meeting in 2007, review and, as appropriate, revise this recommendation with a view to its extension to other types of IUU fishing activities of non-Contracting Party vessels and, to Contracting Party, Cooperating non-Contracting Party.
12. Without prejudice to the rights of flag Contracting Parties or Cooperating non-Contracting Parties, and coastal states to take proper action consistent with international law, the Contracting Parties, Cooperating non-Contracting Parties, shall not take any unilateral trade measures or other sanctions against vessels provisionally included in the draft IUU list, pursuant to paragraph 3, or which have been already removed from the list, pursuant to paragraph 6, on the grounds that such vessels are involved in IUU fishing activities.

II. DRAFT EC PROPOSAL ON GFCM RECOMMENDATION ON CRITERIA FOR OBTAINING THE STATUS OF COOPERATING NON-CONTRACTING PARTY IN GFCM AREA

The General Fisheries Commission for the Mediterranean (GFCM),

NOTING the imperative international responsibility concerning the conservation of the living marine resources in the Mediterranean Sea for the needs of present and future generations;

NOTING that the sustainability can be ensured only if all the Parties which fish for marine resources cooperate with the Commission, which is the competent international body for the conservation and management of these marine resources within its area of competence;

ADOPTS, in conformity with the provisions of with paragraph 1 (h) of Article III of GFCM Agreement that:

1. Each year, the Secretary shall contact all non-Contracting Parties known to be fishing in the GFCM Area for species under GFCM competence to urge them to become a Contracting Party to GFCM in accordance with the provisions of the GFCM Agreement, or attain the status of a Co-operating non-Contracting Party. In doing so, the Secretary shall provide a copy of all relevant Recommendations and Resolutions adopted by the Commission
2. Any non-Contracting Party requesting the status of a co-operating non-Contracting Party shall apply to the Secretary. Requests must be received by the Executive Secretary no later than ninety (90) days in advance of an Annual Session of the Commission, to be considered at that meeting:
3. Non-Contracting Parties requesting the status of Co-operating non-Contracting Party shall provide the following information in order to have this status considered by the Commission:
 - a) where available, data on its historical fisheries in the GFCM Area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
 - b) all the data that Contracting Parties have to submit to GFCM based on the recommendations and resolutions adopted by GFCM;
 - c) details on current fishing presence in the GFCM Area, number of vessels and vessel characteristics and;
 - d) information on any research programmes it may have conducted in the GFCM Area and the information and the results of this research.
4. An applicant for Co-operating non-Contracting Party shall also:
 - a) confirm its commitment to respect the Commission's conservation and management measures and;
 - b) inform GFCM of the measures it takes to ensure compliance by its vessels of GFCM conservation and management measures.
5. The Compliance Committee shall be responsible for reviewing requests for co-operating status and for recommending to the Commission whether or not an applicant should receive co-operating status. In this review, the Compliance Committee shall also consider information regarding the applicant available from other RFMOs as well as data submission of the applicant. Caution shall be used so as not to introduce into the GFCM Area the excessive fishing capacity of other regions or IUU fishing activities by granting cooperating status to the applicant.
6. Co-operating non-Contracting Parties status shall be annually reviewed and renewed unless revoked by the Commission due to non-compliance with GFCM conservation and management measures.

III. DRAFT EC PROPOSAL ON GFCM RECOMMENDATION CONCERNING THE TERMS OF REFERENCE FOR THE GFCM COMPLIANCE COMMITTEE

The General Fisheries Commission for the Mediterranean (GFCM):

ESTABLISHES, in accordance with Article VII (1) of the Agreement creating the GFCM, a Compliance Committee.

The functions of the Compliance Committee shall be to:

- a) Review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary to ensure their effectiveness;
- b) Review the implementation of measures of monitoring, control, surveillance, and enforcement adopted by the Commission as may be necessary to ensure their effectiveness;
- c) Define, develop and make recommendations to the Commission concerning the phased development and implementation of the GFCM Control and Inspection scheme;
- d) Monitor, review and analyze information pertaining to the activities of Non-Contracting Parties and their vessels which undermine the objectives of the Agreement including, in particular, IUU fishing, and recommend actions to be taken by the Commission to discourage such activities
- f) Perform such other tasks as directed by the Commission.

The Compliance Committee will meet during the annual Commission Session.

IV. DRAFT EC PROPOSAL ON GFCM RECOMMENDATION CONCERNING THE DATA CONFIDENTIALITY POLICY AND PROCEDURES

RECOGNISING the need for confidentiality at the commercial and organisational levels for data, reports and messages submitted to GFCM, the following policy and procedures on confidentiality of data will apply.

1. Field of application

The provisions set out below shall apply to all data, reports and messages (electronic and of other nature) transmitted and received pursuant to GFCM recommendations

2. General Provisions

- a) The Executive Secretary and the appropriate authorities of the Contracting Parties and Cooperating Non-Contracting Parties, transmitting and receiving data, reports and messages shall take all necessary measures to comply with the security and confidentiality provisions set out in sections 3 and 4.
- b) The Executive Secretary shall inform all Contracting Parties and Cooperating non-Contracting Parties of the measures taken in the secretariat to comply with these security and confidentiality provisions
- c) The Executive Secretary shall take all the necessary steps to ensure that the requirements pertaining to the deletion of data, reports and messages handled by the Secretariat are complied with
- d) Each Contracting Party and Cooperating non-Contracting Party shall guarantee the Executive Secretary the right to obtain as appropriate, the rectification of data, reports and messages the processing of which does not comply with the provisions of the GFCM Agreement
- e) The Commission may instruct the Executive Secretary not to make available the data, reports and messages received by a Contracting Party and Cooperating non-Contracting Party, where it is established that the Contracting Party and

Cooperating non-Contracting Party in question has not complied with these security and confidentiality provisions

3. Provisions on Confidentiality

- a) Data, reports and messages shall be used only for purposes stipulated in GFCM recommendations.

4. Provisions on Security

- a) Contracting Parties and Cooperating Non-Contracting Parties and the Executive Secretary shall ensure the secure treatments of data, reports and messages, in particular where the processing involves transmission over an electronic network. Contracting Parties and Cooperating Non-Contracting Parties and the Executive Secretary must implement appropriate technical and organisational measures to protect data, reports and messages against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and against all inappropriate forms of processing

The following security issues must be addressed from the outset :

- System access control :
The system has to withstand a break-in attempt from unauthorised persons.
- Authenticity and data access control:
The system has to be able to limit the access of authorised parties to a predefined set of data only
- Communication security :
It shall be guaranteed that data, reports and messages that enter the system are securely communicated.
- Data security:
It shall be guaranteed that data, reports and messages that enter the system are securely stored for the required time and that they will not be tampered with.
- Security procedures:
Security procedures shall be designed addressing access to the system, system administration and maintenance, backup and general use of the system

Having regard to the state of the art and the cost of their implementation, such measure shall ensure a level of security appropriate to the risks represented by the processing of the data, reports and messages.

b) Data Security

Access limitation to the data shall be secured via a flexible user identification and password mechanism. Each user shall be given access only to the data necessary for his task.

c) Security Procedures

Each Contracting Party and Cooperating Non-Contracting Party and the Executive Secretary shall nominate a security system administrator. The security system administrator shall review the log files generated by the software, properly maintain the system security, restrict access to the system as deemed needed and act as a liaison with the Executive Secretary in order to solve security matters.