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GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

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**Draft proposal for a GFCM Recommendation on a Regional Scheme on
Port State Measures to combat Illegal, Unreported and Unregulated
Fishing in the GFCM Area**

The General Fisheries Commission for the Mediterranean (GFCM),

RECALLING the 2003 Declaration of the Ministerial Conference for the Sustainable Development of Fisheries in the Mediterranean;

RECALLING further the 2005 FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing endorsed by the Twenty-sixth Session of the FAO Committee on Fisheries;

RECALLING further the Sustainable Fisheries Resolutions of the United Nations General Assembly adopted in 2005, 2006 and 2007 calling for the development of a legally-binding instrument on port State measures;

RECALLING further part three of the 2005 General Guidelines for a GFCM Control and Enforcement Scheme and the GFCM Recommendation GFCM/2006/4 on the Establishment of a List of Vessels Presumed to have Carried out Illegal, Unreported and Unregulated Fishing Activities in the GFCM Area;

ACKNOWLEDGING the decision of the Twenty-seventh Session of the FAO Committee on Fisheries to develop a legally-binding instrument on port State measures;

TAKING INTO ACCOUNT the draft Agreement on port State measures developed by the FAO Expert Consultation to Develop a Legally-binding instrument on Port State Measures held 4-8 September 2007 in Washington DC USA;

NOTING port State measures that have been adopted by various regional fisheries management organizations;

CONCERNED by the fact that illegal, unreported and unregulated fishing (IUU) activities in the GFCM area continue, and that these activities diminish the effectiveness of the GFCM conservation and management measures,

RECOGNIZING the potential effectiveness of strengthened and harmonized Port State Measures in combating illegal, unreported and unregulated fishing activities, and the need to develop and to implement such measures in a fair, transparent and non-discriminatory manner;

Adopts in conformity with the provision of paragraph 1 (b) and (h) of Article III and Article V of the GFCM Agreement:

Objective

1. The objective of this Recommendation is to contribute to the long-term conservation and sustainable use of living marine resources through strengthened, harmonized and transparent port State measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.

Definitions

2. For the purposes of this Recommendation,

“fish” means all species of living marine resources, whether processed or not;

“fishing” means:

- (i) the actual or attempted searching for, catching, taking or harvesting of fish; and
- (ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;

“fishing related activities” means any operation in support of, or in preparation for, fishing, including the processing, transshipment or transport of fish that have not been previously landed and offloaded at a port, as well as the provision of personnel, fuel, gear and other supplies at sea;

“vessel” means any vessel, ship of another type, boat and other craft used for, equipped to be used for, or intended to be used for, fishing or fishing related activities.

“port” includes offshore terminals and other installations for landing, transshipping, processing refuelling or resupplying;

“illegal, unreported and unregulated fishing” has the same meaning as set out in the paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and applies to all marine fisheries;

“regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Recommendation, including the authority to make decisions binding on its member States in respect of those matters;

“regional fisheries management organization” means an intergovernmental fisheries organization or arrangement, as appropriate, that has the competence to establish conservation and management measures;

Application

3. Except as provided in paragraph 2 of this Article, each Party shall, in its capacity as a port State, apply this Recommendation in respect of vessels that are not flying its flag that are seeking access to its port(s) or are in one of its ports.
4. Each Contracting Party shall take all necessary measures to ensure effective jurisdiction and control over the fishing and fishing related activities of vessels flying its flag. To the greatest extent possible, such measures shall include *mutatis mutandis* the port State measures set forth in this Recommendation in respect of such vessels.
5. For the purposes of this Recommendation, vessels that fly the flag of a Contracting Party port State and land, tranship or process their catch in that Contracting Party shall be exempt from the provisions of this Recommendation if two or more of the following criteria are met:
 - (a) the length overall of the vessel is 15 metres or less;
 - (b) passive fishing gear is used;
 - (c) the fishing trip is less than one day;
 - (d) the fishing operation takes place in waters under the jurisdiction of the port State,

and the Contracting Party ensures control of such vessels under its national laws and regulations and provides the GFCM Secretariat with copies of such laws and regulations.

Integration and coordination

6. To the greatest extent possible, Contracting Parties shall:
 - (a) integrate port State measures into a broader system of port State controls;
 - (b) integrate port State measures with other measures to prevent, deter and eliminate illegal, unregulated and unreported fishing; and
 - (c) take measures to share information among relevant national agencies and to coordinate the activities of such agencies in the implementation of this Recommendation.

Cooperation and exchange of information

7. In the implementation of this Recommendation and with due regard to appropriate confidentiality requirements, Contracting Parties shall cooperate and exchange information with the GFCM Secretariat, relevant States and international organizations and other entities, including, as appropriate, by:
 - (a) requesting information from, and providing information to, relevant databases;
 - (b) requesting and providing cooperation to promote the effective implementation of this Recommendation.
8. The Contracting Parties shall, to the extent possible, ensure that national fisheries related information systems allow for the direct electronic exchange of information on port State inspections between them and with the GFCM Secretariat, with due regard to appropriate confidentiality requirements, in order to facilitate the implementation of this Recommendation;
9. The Contracting Parties shall establish a list of contact points in the relevant administrations in order to take due note of any reply or any actions proposed or taken by the flag State of the inspected vessel. The list shall be transmitted to the Executive Secretary of GFCM and to the other Contracting Parties no later than ** .

Designation of Ports

10. The Contracting Parties shall designate and publicize national ports to which [foreign] vessels may be permitted access and, to the greatest extent possible, shall ensure that every port designated and publicized has sufficient capacity to conduct inspections and take other port State measures in accordance with this Recommendation.
11. The Contracting Parties shall notify the GFCM Secretariat of the ports designated under paragraph 10 within 10 (ten) days of such designation.

GFCM Register of Ports

12. The GFCM Secretariat shall establish and maintain a register of designated and publicized national ports based on the lists submitted by Contracting Parties. The register shall be published on the GFCM website.

Prior Notice of Entry into Port

13. The Contracting Parties shall, before granting access to their designated ports, require the masters of vessels to notify the competent authorities of the port they wish to use at least ** hours before the estimated time of arrival. However, a Contracting Party may make provision for another notification period, taking into account, *inter alia*, the distance between the fishing grounds and its ports. The notification shall include, as a minimum standard, the information set out in **Annex A**.

Port Entry Authorization

14. Each Contracting Party, through its competent authorities, shall communicate in a written form the authorization, or denial, for access to the port for landing, transshipping or processing to the master of the vessel seeking access to its ports. The master of the vessel shall present the authorization for access to the port to the competent authorities of the Contracting Party upon arrival at port before commencing authorized activities.

Denial of use of port

15. A Contracting Party shall not allow a vessel to use its ports for landing, transshipping or processing of fish if the vessel:
 - (a) at the relevant time was engaged in fishing in the GFCM Area and was not flying the flag of a Contracting Party; or
 - (b) has been sighted as being engaged in, or supporting, illegal, unreported and unregulated fishing in the GFCM Area,unless the vessel can establish that the catch was taken in a manner consistent with relevant GFCM conservation and management measures.
16. A Contracting Party shall not allow a vessel to use its ports for landing, transshipping or processing of fish if the vessel is included in a list of vessels having engaged in, or supported, illegal, unreported and unregulated fishing adopted by a regional fisheries management organization in accordance with the rules and procedures of such organization.
17. A Contracting Party shall not allow a vessel to use its ports for landing, transshipping or processing of fish where there are reasonable grounds for believing that the vessel does not have a valid and applicable authorization to engage in fishing and fishing related activities in the GFCM Area.
18. A Contracting Party shall, in appropriate situations, deny a vessel referred to in paragraphs 15, 16 and 17 access to port services, including, *inter alia*, refuelling and resupplying services but not including services essential to the safety, health and welfare of the crew.
19. Where a Contracting Party has denied the use of its ports in accordance with this Recommendation, it shall promptly notify the master of the vessel, the flag State and, as appropriate, the relevant coastal State(s), the GFCM Secretariat and other relevant organizations of such action.

Withdrawal of denial of use of port

20. A Contracting Party may withdraw its denial of the use of its port in respect of a vessel only if the Contracting Party is satisfied that there is sufficient proof to show that the grounds on which the use was denied were inadequate or erroneous or that such grounds no longer apply.

21. Where a Contracting Party has withdrawn its denial pursuant to paragraph 20, it shall promptly notify those to whom a notification was issued pursuant to this Recommendation.

Non-authorized entry

22. Each Contracting Party shall ensure that any vessel or vessel engaged in fishing related activities that enters into its port without prior authorization shall be automatically subject to inspection.

Inspections

23. Each Contracting Party shall inspect at least [15 per cent] of the total number of port entries of vessels in the previous year in accordance with this Recommendation.
24. In determining which vessels to inspect, a Party shall give priority to:
 - (a) vessels that have previously been denied the use of a port in accordance with this Recommendation; and
 - (b) requests from other relevant States or regional fisheries management organizations that particular vessels be inspected.
25. Each Contracting Party shall ensure that inspections of vessels in its ports are carried out in accordance with the inspection procedures set out in **Annex B**;
26. Each Contracting Party shall ensure that requirements are established for the certification of its inspectors. Such requirements shall take into account the elements for the training of inspectors in **Annex C**.
27. Each Contracting Party shall ensure that inspectors make all possible efforts to avoid unduly delaying vessels and that vessels suffer the minimum interference and inconvenience possible and that degradation of the quality of the fish is avoided.
28. Each Contracting Party shall, as a minimum standard, require the information set out in **Annex D** to be included in the report of the results of each inspection.
29. Each Contracting Party shall ensure that the results of port inspections are always presented to the master of the vessel for review and signature and that the report is completed and signed by the inspector. The master of the inspected vessel shall be given the opportunity to add any comment to the report and, as appropriate, to contact the relevant authorities of the flag State, in particular when there are serious difficulties in understanding the contents of the report.
30. Each Contracting Party shall ensure that a copy of the report of inspection shall be provided to the master of the inspected vessel for retention on board the vessel.
31. Where there is reasonable evidence for believing that a vessel has engaged in or supported IUU fishing activities, the relevant port State shall:

- (a) transmit the results of the inspection without delay to the flag State of the inspected vessels to the GFCM Secretariat and other Contracting Parties;
 - (b) deny use of their ports to the vessel for landing, transhipping or processing of fish.
32. Contracting Parties may take measures other than those in paragraph 31, provided they are provided for in their national laws and regulations and consistent with international law.

Standardized information on port inspections

33. Each Contracting Party shall handle information on port inspections in a standardized form, consistent with **Annex E**.

Regional information system

34. A regional information system which includes port State information shall be developed by the GFCM to better monitor and control the GFCM Area.

Force majeure or distress

35. Nothing in this Recommendation affects the access of vessels to port in accordance with international law for reasons of *force majeure* or distress.

Role of the flag State

36. Each Contracting Party shall, in its capacity as a flag State, cooperate with other Contracting Parties.
37. When a Contracting Party has reasonable grounds to believe that a vessel flying its flag has engaged in or supported illegal, unreported and unregulated fishing and is seeking access to or is in the port of another Contracting Party, it shall, as appropriate, request that Contracting Party inspect the vessel and to advise them of the results.
38. Each Contracting Party shall ensure that vessels entitled to fly its flag land, tranship and process fish, and use other port services, in ports of other Contracting Parties that are acting in accordance with, or in a manner consistent, with this Recommendation.

ANNEX A

Information to be provided in advance by vessels**1. Vessel identification**

- Name of the vessel;
- External Identification Number;
- International Radio Call Sign;
- Lloyd's IMO Number (where appropriate);
- Flag State;
- Vessel owner (name, address, contact, unique identity for company and registered owner);
- Vessel operator if different from owner (name, address, contact);
- Beneficial owner if different from owner (name, address, contact);
- Vessel master;
- Vessel agent (name, address, contact);
- VMS (where appropriate):
 - type of VMS required by the flag State and/or relevant regional fisheries management organization;
 - details of the VMS unit to enable communication.
- Previous Names(s) and Flag State(s), if any.

2. Access to port

- Purpose(s);
- Intended port of call;
- Estimated time of arrival.

3. Fishing authorization (licenses/permits)

- The vessel's authorization(s) to fish or transport fish and fish products;
- State(s) issuing the authorization(s);
- Terms of the authorization(s), including areas and duration;
- Areas, scope and duration of the authorization(s);
- Details of allocation authorized – quota, effort or other;
- Species, bycatch and fishing gear authorized; and
- Transshipment records and documents¹ (where applicable).

4. Fishing trip information

- Dates, times, zone and place of current fishing trip;
- Areas visited (entry and exit from different areas), including GSAs, High Seas and others, as appropriate;
- Transshipment activities at sea (date, species, quantity of fish transhipped)
- Last port visited; and date.

¹ The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Annex B.

5. Species information

- Log Book – Yes/No
- Fish species and fishery products onboard;
- Areas of capture or collection – areas under national jurisdiction, high seas;
- Product type;
- Estimated Processed weight;
- Estimated Equivalent live weight;
- Estimated Quantity to be landed; and
- Intended destination of landed fish.

6. Other – as required by Port States

ANNEX B**Port State Inspection Procedures for Vessels****1. Vessel identification**

The port inspector(s) shall:

- a) verify that the official documentation onboard is valid, if necessary, through appropriate contacts with the flag State or international records of vessels;
- b) where necessary, arrange for an official translation of the documentation;
- c) be assured that the vessel's name, flag, any external identification number and markings (and IMO ship identification number when available) and the international radio call sign are correct;
- d) to the extent possible, examine whether the vessel has changed name and/or flag and, if so, note the previous name(s) and flag(s);
- e) note the port of registration, name and address of the owner (and operator and beneficial owner if different from the owner), agent, and master of the vessel, including the unique ID for company and registered owner if available; and
- f) note name(s) and address(es) of previous owner(s), if any, during the past five years.

2. Authorization(s)

The port inspector(s) shall verify that the authorization(s) to fish or transport fish and fishery products are compatible with the information obtained under paragraph 1 and examine the duration of the authorization(s) and their application to areas, species and fishing gear.

3. Other documentation

The port inspector(s) shall review all relevant documentation, including documents in electronic format. Relevant documentation may include logbooks, in particular the fishing logbook, as well as the crew list, stowage plans and drawings or descriptions of fish holds if available. Such holds or areas may be inspected in order to verify whether their size and composition correspond to these drawings or descriptions and whether the stowage is in accordance with the stowage plans. Where appropriate, this documentation shall also include catch documents or trade documents issued by any regional fisheries management organization.

4. Fishing gear

- a) The port inspector(s) shall verify that the fishing gear on board is in conformity with the conditions of the authorization(s). The gear may also be checked to ensure that features such as, *inter alia*, the mesh size(s) (and possible devices), length of nets, hook sizes conform with applicable regulations and that identification marks of the gear correspond to those authorized for the vessel.
- b) The port inspector(s) may also search the vessel for any fishing gear stowed out of sight and for fishing gear that is otherwise illegal.

5. Fish and fishery products

- a) The port inspector(s) shall, to the greatest extent possible, examine whether the fish and fishery products on board were harvested in accordance with the conditions set out in the applicable authorization(s). In doing so, the port inspector(s) shall examine the fishing logbook, reports submitted, including those transmitted by a vessel monitoring system (VMS), as appropriate.
- b) In order to determine the quantities and species on board, the port inspector(s) may examine the fish in the hold or during the landing. In doing so, the port inspector(s) may open cartons where the fish has been pre-packed and move the fish or cartons to ascertain the integrity of fish holds.
- c) If the vessel is unloading, the port inspector(s) may verify the species and quantities landed. Such verification may include product type, live weight (quantities determined from the logbook) and the conversion factor used for calculating processed weight to live weight. The port inspector(s) may also examine any possible quantities retained onboard.
- d) The port inspector(s) may review the quantity and composition of all catch onboard, including by sampling.

6. Verification of IUU fishing

If the port inspector(s) has reasonable grounds to believe that a vessel has engaged in, or supported IUU fishing, the competent authority of the port State shall as soon as possible contact the flag State authorities to verify whether the fish and fishery products have been harvested or collected in the areas as recorded in the relevant documents. As appropriate, the competent authority may also contact a coastal State where the fish was allegedly taken.

7. Report

A written report shall be prepared and signed by the inspector on completion of the inspection and a copy provided to the master of the vessel in accordance with paragraph 29 of the Recommendation.

ANNEX C**Training of Port State Inspectors**

Elements of a training programme of port State inspectors should include at least the following areas.

1. Training in inspection procedures.
2. Relevant laws and regulations, areas of competence and conservation and management measures of relevant regional fisheries management organizations, and applicable rules of international law.
3. Information sources, such as log books and other electronic information that may be useful for the validation of information given by the master of the vessel.
4. Identification of fish species and measurement calculation.
5. Monitoring catch landing, including determining conversion factors for the various species and products.
6. Identification of vessels and gear and gear measurements and inspections.
7. Vessel boarding/inspection, hold inspections and calculation of vessel hold volumes.
8. VMS equipment and operation.
9. Collection, evaluation and preservation of evidence.
10. The range of measures available to be taken following the inspection.
11. Health and safety issues in the performance of inspections.
12. Conduct during inspections.
13. Relevant languages, particularly English.

ANNEX D**Results of Port State Inspections**

Results of port State inspections shall include at least the following information:

1. Inspection references

- Inspecting authority (name of inspecting authority or the alternate body nominated by the authority);
- Name of inspector;
- Date and time of inspection;
- Port of inspection (place where the vessel is inspected); and
- Date (date the report is completed).

2. Vessel identification

- Name of the vessel;
- Type of vessel;
- Type of gear;
- External identification number (side number of the vessel) and IMO-number (if available) or other number as appropriate;
- International Radio Call Sign;
- MMSI-number (Maritime Mobile Service Identity number), if available;
- Flag State (State where the vessel is registered);
- Previous name(s) and flag(s), if any;
- Home port (port of registration of the vessel) and previous home ports;
- Vessel owner (name, address, contact of the vessel owner);
- Vessel beneficial owner if different from the vessel owner (name, address, contact);
- Vessel operator responsible for using the vessel if different from the vessel owner (name, address, contact);
- Vessel agent (name, address, contact)
- Name(s) and address(es) of previous owner(s), if any;
- Name, nationality and maritime qualifications of master and fishing master;
- Crew list

3. Fishing authorization (licenses/permits)

- The vessel's authorization(s) to fish or transport fish and fish products;
- State(s) issuing the authorization(s);
- Terms of the authorization(s), including areas and duration;
- Relevant regional fisheries management organization;
- Areas, scope and duration of the authorization(s);
- Details of allocation authorized – quota, effort or other;
- Species, bycatch and fishing gear authorized; and
- Transshipment records and documents² (where applicable).

² The transshipment records and documents must include the information provided for in paragraphs 1-3 of this Annex B.

4. Fishing trip information

- Date, time, zone and place current fishing trip commenced;
- Areas visited (entry and exit from different areas);
- Transshipment activities at sea (date, species, place, quantity of fish transhipped)
- Last port visited; and
- Date and time where current fishing trip ended
- Intended next port of call, as appropriate.

5. Result of the inspection on the catch

- Start and end of discharge (times and date);
- Fish species;
- Product type;
- Live weight (quantities determined from the log book);
- Relevant conversion factor;
- Processed weight (quantities landed by species and presentation);
- Equivalent live weight (quantities landed in equivalent live weight, as “product Weight multiplied with the conversion factor”); and
- Intended destination of fish and fishery products inspected.

6. Results of gear inspection

- Details of gear types.

7. Conclusions

- Conclusions of the inspection including identification of the violations believed to have been committed and reference to the relevant rules and measures. Such evidence shall be attached to the inspection report

ANNEX E

Information System on port State Inspections**1. Communication between Contracting Parties and the Secretariat, and the relevant Flag States as well as between Contracting Parties and relevant regional fisheries management organizations would require the following:**

- data characters;
- structure for data transmission;
- protocols for the transmission; and
- formats for transmission including data element with a corresponding field code and a more detailed definition and explanation of the various codes.

2. International agreed codes shall be used for the identification of the following items:

- States: 3-ISO Country Code;
- fish species: FAO 3-alpha code;
- vessels: FAO alpha code;
- gear types: FAO alpha code;
- devices/attachments: FAO 3-alpha code; and
- ports: UN LO-code, or codes as provided by the Port State.

3. Data elements shall at least include the following:

- inspection references;
- vessel identification ;
- fishing authorization(s) (licenses/permits);
- trip information;
- result of the inspection on discharge;
- quantities inspected;
- result of gear inspection;
- irregularities detected;
- actions taken; and
- information from the flag State.