



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



GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

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Proposal to amend the Recommendation GFCM/2006/4 on the establishment of a list of vessels presumed to have carried out illegal, unreported and unregulated fishing in the GFCM area¹²

¹ As recommended by the Commission: paragraph 95 of the report of the 32nd Session “*Following the request by several delegations to be able to accurately analyse the legal implications at national levels of the proposed amendment, the Commission agreed to re-examine the draft Recommendation, provided as Appendix H, at its next session.*”

² The proposed changes were highlighted in grey

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 and Article V of the GFCM Agreement that:

Definition of IUU activities

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 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, or participate in joint operations such as re-supply or refuelling 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.

Information on presumed IUU activities

2. Contracting Parties and Cooperating non-Contracting Parties, shall transmit every year to the Executive Secretary at least 120 days before the Annual Session, 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.

Draft IUU list

3. On the basis of the information received pursuant to paragraph 2, the GFCM Executive Secretary shall draw up a draft IUU list. This list shall be drawn up in conformity with Annex I. The Executive Secretary shall transmit it together with the current IUU list as well as 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 at least 90 days before the Annual Session. 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, at least 30 days before the Annual Session

The Flag State shall notify the owner of the vessels of its inclusion in the Draft IUU List and of the consequences that may result from their inclusion being confirmed in the IUU List adopted by the Commission.

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.

Provisional IUU List

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 two weeks in advance of the Commission Session to the Contracting Parties and Cooperating non-Contracting Parties, together with all the evidence provided. This list shall be drawn up in conformity with Annex I.
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 Session 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 described 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 Compliance Committee shall:
- (i) adopt a provisional IUU vessel list following consideration of the draft IUU list and information and evidence circulated under paragraphs 3 and 5. The provisional IUU vessel list shall be submitted to the Commission for approval.
 - (ii) recommend to the Commission which, if any, vessels should be removed from the IUU vessel list adopted at the previous GFCM Annual Meeting, following consideration of that List, of the information and evidence circulated under paragraphs 3 and 5, and the information requested to Flag State in paragraph 13.

IUU List

8. On adoption of the list, the Commission shall request non-Contracting Parties, whose vessels appear on the IUU list:
- to notify the owner of the vessel identified on the IUU list of its inclusion on the list and the consequences which result from being included on the list, as referred to in paragraph 9;
 - to take all the necessary measures to eliminate these IUU fishing activities, including if necessary, the cancelling 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, support vessels, refuelling vessels the mother ships and the cargo vessels flying their flag do not engage in fishing processing operations or participate in any transshipment or joint fishing operations with vessels included on the IUU vessels list, or assist in anyway, except in case of force majeure;
 - b) So that IUU vessels are not authorized to land, refuel, re-supply or engage in other commercial transactions;
 - c) To prohibit the entry into their ports of vessels included on the IUU list, except in case of force majeure;
 - d) To prohibit the chartering of a vessel included on the IUU list;
 - e) 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 that 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;
 - f) To prohibit the imports, or landing and/or transshipment, of any species from vessels included in the IUU list;
 - g) To encourage the importers, transporters and other 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. Upon receipt of the final IUU vessel list established by another RFMO managing tuna or tuna-like species and any information regarding the list, the Executive Secretary shall circulate this information to the Members. Vessels that have been added or deleted from the respective lists shall be incorporated into or deleted from the GFCM IUU vessel list as appropriate, unless any Contracting Party objects within 30 days of the date of transmittal by the Executive Secretary on the grounds that:
- i) there is satisfactory information to establish that the vessel did not engage in any IUU fishing activities or that 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, or
 - ii) there is satisfactory information to establish that none of the requirements mentioned in i) above have been met with regard to a vessel taken off the respective lists, or
 - iii) there is insufficient information to make a determination pursuant to sub-paragraph i), or ii), above within 30 days. In the event of an objection to a vessel listed by another RFMO managing tuna or tuna-like species being incorporated into or deleted from the GFCM IUU Vessel List, such vessel shall be placed on the provisional IUU vessel list.
12. This recommendation shall apply initially to large-scale fishing vessels over 24 metres LOA, flying the flag of non-Contracting Parties. The Commission shall, in future annual meetings, 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.~~
13. 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.

Deletion from the IUU vessels list

14. A non-Contracting Party whose vessel appears on the IUU list may request the removal of this vessel from the list during the intersessional period by providing the following information:
- it has adopted measures so that this vessel respects all GFCM conservation measures;
 - it will be able to assume effectively its responsibilities with respect to this vessel in particular as regards the monitoring and control of the fishing activities executed by this vessel in the GFCM Agreement Area;
 - it has taken effective action in response to the IUU fishing activities in question including prosecution and imposition of sanctions of adequate severity, if relevant;
 - the vessel has changed ownership and that the new owner can establish the previous owner no longer has any legal, financial or real interests in the vessel or exercises control over it and that the new owner has not participated in IUU fishing, if relevant.

Intersessional modification of the IUU vessels list

15. The non-Contracting Party shall send its request for the removal of the identified vessel from the IUU list to the GFCM Executive Secretary accompanied by the supporting information referred to in paragraph 14.

16. On the basis of the information received in accordance with paragraph 14, the GFCM Executive Secretary will transmit the removal request, with all the supporting information to the Contracting Parties within 15 days following the notification of the removal request.
17. The Contracting Parties will examine the request to remove the vessel and arrive at a conclusion on either the removal from, or the maintenance of the vessel on the IUU list by mail within 30 days following the notification by the Executive Secretariat. The result of the examination of the request by mail will be checked by the Executive Secretary at the end of the 30-day period following the date of the notification by the Executive Secretary referred to in paragraph 16. If a Contracting Party does not reply the notification from the Executive Secretary, it will be considered as an abstention from the vote and part of the quorum for the decision-making.
18. The Executive Secretary will communicate the result of the examination of the removal request as of the end of the 30-day period following the date of the notification referred to in paragraph 16 to all Contracting Parties.
19. If the result of the exercise indicates that there is a two-thirds majority of the Contracting Parties in favour of removal of the vessel from the IUU list, the President of the GFCM, on behalf of the GFCM, will communicate the result to all the Contracting Parties and to the non-Contracting Party which requested the removal of its vessel from the IUU list. In the absence of a two-thirds majority, the vessel will be maintained on the IUU list and the Executive Secretary will inform the non-Contracting Party accordingly.
20. The Executive Secretary of the GFCM will take the necessary measures to remove the vessel concerned from the GFCM IUU vessels list, as published on the GFCM Web site. Moreover, the Executive Secretary of the GFCM will forward the decision of removal of the vessel to other regional fishery organisations.

General dispositions

21. 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* is replaced by this Recommendation.
22. This Recommendation shall apply mutatis mutandis to large-scale fishing vessels flying the Flag of Contracting Parties and Cooperating non-Contracting Parties.

ANNEX 1**Information to be included in all IUU lists (draft, provisional and final)**

The draft IUU list, as well as the provisional IUU list shall contain the following details, where available:

i) Name of vessel and previous names;

ii) Flag of vessel and previous flag;

iii) Name and address of owner of vessel and previous owners, including beneficial owners, and owner's place of registration;

iv) Operator of vessel and previous operators;

v) Call sign of vessel and previous call sign;

vi) Lloyds/IMO number;

vii) Photographs of the vessel;

viii) Date vessel was first included on the IUU list;

ix) Summary of activities which justify inclusion of the vessel on the List, together with references to all relevant documents informing of and evidencing those activities.