



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



SCIENTIFIC ADVISORY COMMITTEE (SAC)

Sub-Committee on Economic and Social Sciences (CESS)

**Report of the Expert meeting on fisheries legislation in the Mediterranean and
Black Sea**

Beirut, Lebanon, 26-28 October 2011

OPENING, ARRANGEMENT OF THE MEETING AND ADOPTION OF THE AGENDA

1. The “Expert meeting on fisheries legislation in the Mediterranean and Black Sea” (hereafter “the meeting”) was held in Beirut, Lebanon, from 26 to 28 October 2011, under the frame of the LaMed Project funded by Italy. It was attended by 35 participants from Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, France, Italy, Lebanon, Malta, Montenegro, Morocco, Slovenia, Spain, Tunisia and Turkey as well as representatives of the United Nations Environment Programme (UNEP), the Regional Advisory Council for the Mediterranean (RAC MED–CCR MED)/MEDISAMAK, FAO and the GFCM Secretariat. The list of participants is provided in Appendix B to this report.

2. Mr Abdellah Srour, Executive Secretary of the GFCM, welcomed the participants and thanked the Lebanese authorities and the FAO Representation in Lebanon for their kindness in hosting and arranging the meeting. He recalled its importance, in particular given the difficulties faced by the fisheries sector in the Mediterranean and the Black Sea (hereafter “the region”) as a consequence of the considerable pressure placed on the living marine resources and ecosystems. He stressed that the establishment of a more appropriate framework for the sustainable management of such resources is needed now more than ever.

3. Mr Ali Moumen, FAO Representative in Lebanon, welcomed the participants and thanked them for attending the meeting. He insisted on the necessity to put in place common sustainable policies for the development of the region and wished the meeting to be fruitful in stressing the importance of such cooperation, and in fostering development of useful fisheries management recommendations for the region.

4. Mr Hassan Atwe, Advisor to His Excellency the Minister of Agriculture and Food Supply, Mr. Hussein Hajj Hassan, greeted the participants on his behalf and stressed the relevance for Lebanon to convene such an important meeting in Beirut, recalling that the country was one of the first to join the GFCM and to ratify its Agreement. Mr Atwe stressed on the significance of the meeting in light of the many developments of the fisheries sector – a key one for Lebanon – and hoped that the weight given by the GFCM to the legal framework through its binding recommendations, together with the outcome of the upcoming discussions, would lead to the necessary enhanced cooperation in the region and a constructive harmonization of legislation.

5. Mr Samir Majdalani, Head of the Department of Fisheries and Wildlife in the Ministry of Agriculture in Lebanon, was unanimously appointed as Chair of the meeting. Mr Haydar Fersoy, Ms Marie-Louise Hayek and Ms Margherita Sessa acted as Rapporteurs.
6. The Agenda was adopted and is attached as Appendix A.

INTRODUCTION OF THE INTERNATIONAL LEGAL FRAMEWORK RELEVANT TO FISHERIES AND APPLYING TO THE GFCM AGREEMENT AREA

7. Mr Tullio Scovazzi, facilitator of the meeting, introduced the international legal framework, which is also applicable to fisheries in the Mediterranean and Black Sea, basing himself on a paper that was distributed to the participants to the meeting. He elaborated on the nature and extent of maritime zones that can be established under international law and have actually been established in the region as well as on the international regime of fisheries applying at the global level, both under the United Nations Convention on the Law of the Sea (UNCLOS) and other subsequent instruments. He also considered the forms of regional co-operation established within the GFCM Agreement Area, in particular the scope and content of the GFCM Agreement and the main aspects of the Common Fisheries Policy (CFP) of the European Union (EU). A new rule is emerging in international law that binds States to prevent fishing vessels flying their flag to undermine the effectiveness of conservation and management measures agreed upon at the international level.
8. Ms Camille Samier, from the GFCM Secretariat, presented a general overview of the implementation of some GFCM measures at national level, based on the answers provided by the experts to the “Questionnaire on fisheries legislation in the Mediterranean and the Black Sea¹”. While a significant number of measures have been adopted by Members in order to tackle overcapacity², reduce trawling fishing effort³, or improve gear selectivity⁴, several recommendations are still in the need to be fully implemented, especially regarding the monitoring, control and surveillance. In that respect, further information related to the progress on the implementation of the establishment of the GFCM logbook⁵, the Vessel Monitoring System⁶ (VMS), and the requirements related to port states measures⁷ is still awaited in order to enable a more comprehensive analysis of the current situation.
9. Mr Nidal Melouah, from FAO Subregional Office for the North Africa, gave a presentation on the implementation of the Code of Conduct for Responsible Fisheries (CCRF) in the fisheries management regulations and instruments in North African Countries, namely Algeria, Libya, Morocco, Mauritania and Tunisia. Through the elaboration of an analysis grid (“compliance matrix”), he presented to the meeting the degree of implementation of the CCRF into national legislation, with respect to several criteria (i.e. institutional and regulatory frameworks, National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IUU), stakeholder consultation, management of the overcapacity, fishing operations, international trade, ratification of international instruments, etc.). This inventory revealed that significant efforts have been made to achieve a better harmonization with the CCRF. However, some obstacles still remain and especially the lack of enforcement due to poor institutional, logistic and human resources capacities.

¹ The “Questionnaire on fisheries legislation in the Mediterranean and the Black Sea” was drafted in April 2010 and circulated among the network of experts established in the region, notably by the FAO Regional Projects, AdriaMed and EastMed. It was designed to update the information available related to the existing legal frameworks in the region. After an overview of the capture fisheries legal framework, it focused on five main issues: (i) access regimes to fisheries resources; (ii) conservation and management measures; (iii) monitoring, control and surveillance; (iv) enforcement procedures and sanctions. It concluded with the identification of current priority issues faced in the region. Emphasis has been put also on the enforcement of the relevant GFCM recommendations by Members. 20 questionnaires were received by the GFCM Secretariat: 18 from GFCM Members (including the European Union) and 2 from Non-Members: namely Palestine and Ukraine.

² See REC. MCS-GFCM 34/2010/2 on the management of fishing capacity.

³ See RES-GFCM 33/2009/1 on the management of demersal fisheries.

⁴ See REC. CM-GFCM 29/2005/1 on the management of certain fisheries exploiting demersal and deepwater species.

⁵ See REC. CM-GFCM 35/2011/1 concerning the establishment of a GFCM logbook, amending Rec. GFCM 34/2010/1.

⁶ See REC. MCS-GFCM 33/2009/2 on the minimum standards for the establishment of a Vessel Monitoring System.

⁷ See REC. MCS-GFCM 32/2008 on a regional scheme on port state measures to combat illegal, unreported and unregulated fishing activities in the GFCM area.

10. Mr Bertrand Cazalet introduced the meeting with the reform process of the Common Fishery Policy (CFP) and the position of and proposals for small-scale fisheries in the Mediterranean. Issued on 13 July 2011, the “Proposal for a Regulation of the European Parliament and of the Council on the Common Fishery Policy⁸” (hereafter “the Proposal”) aims at addressing the “structural weaknesses” of the CFP, highlighted by the “Green Paper” in 2009⁹. Expectations of all stakeholders and officials of the sector, in particular representatives of small-scale fisheries, were identified during prior public consultations¹⁰. On this occasion, the adoption of a “differentiated management regime” for this professional category was widely supported by contributors given its very characteristics (artisanal, multi-specific) that distinguish them from offshore fisheries, more specialized and rather managed by stocks and individual transferable quotas. However, at present, the proposed regulation only partially meets these concerns. According to Article 27.2¹¹ of the Proposal, Member States would have indeed the free choice to decide either “by default” for the standardization of management strategies (towards an extension of the general principle of transferable fishing concessions as described in Article 28¹² of the Proposal) or for the adoption of specific measures tailored to small-scale fisheries in the context of “regionalization”.

In addition, the implementation of a system of Transferable Fishing Concessions (TFC) is still subject to many uncertainties, especially regarding a definition (legal and operational) of the new concept of “fishing opportunities” allocated nationally and individually and for all fisheries, whether or not subject to TFC¹³. The cost or value of future fishing rights¹⁴ remains also largely unknown, thus raising many concerns on the part of individual fishermen, the most dominant category in small-scale fisheries, on their ability to invest on the long term on a renewable natural resource. The risk of speculation, privatization of wealth and windfall profit for only a handful of stakeholders, are often put forward by many expert observers. So far, and despite the interest shown by European policy makers for “small-scale coastal fleets”, this text does not offer them precise management guidelines, leaving a total blank check to the States regarding the form and the content of a possible (or not) differentiated regime. In this regard, a clear distinction between legal framework and management methods must be drawn by the EU Member States.

Finally, in the overall Mediterranean context, and given the status of semi-enclosed sea, it is assumed that the EU is acting in a spirit of cooperation between States. Therefore, it should take into account the need for policy coherence in fisheries management at the regional level, particularly for small-scale fisheries. In that respect, the GFCM could play an active role in this process of legal systems differentiation before the final adoption of the CFP reform. In parallel, given the homogeneity of the sector which dominates Mediterranean coastal fisheries (80% of units), a clear definition of “small-scale fisheries” should be given, in order to

⁸ See Proposal for a Regulation of the European Parliament and of the Council on the Common Fishery Policy, COM(2011)0425 final, available online at the following URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0425:FIN:EN:PDF>.

⁹ See Green Paper: Reform of the Common Fisheries Policy, COM(2009)163 final, available online at the following URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0163:FIN:EN:PDF>.

¹⁰ See Commission Staff Working Document. Synthesis of the Consultation on the Reform of the Common Fisheries Policy synthesis, SEC(2010)428 final, available online at the following URL: [http://ec.europa.eu/fisheries/reform/sec\(2010\)0428_en.pdf](http://ec.europa.eu/fisheries/reform/sec(2010)0428_en.pdf).

¹¹ Article 27.2 (Establishment of systems of transferable fishing concessions): “Member States may extend the system of transferable fishing concessions to fishing vessels of less than 12 meters length overall and deploying other types of gear than towed gear and shall inform the Commission thereof”.

¹² Article 28 (Allocation of transferable fishing concessions)

“1. A transferable fishing concession shall establish an entitlement to use the individual fishing opportunities allocated in accordance with Article 29(1).

2. Each Member State shall allocate transferable fishing concessions on the basis of transparent criteria, for each stock or group of stocks for which fishing opportunities are allocated in accordance with Article 16, excluding fishing opportunities obtained under sustainable fisheries agreements.

3. For the allocation of transferable fishing concessions pertaining to mixed fisheries, Member States shall take account of the likely catch composition of vessels participating in such fisheries.

4. Transferable fishing concessions may only be allocated by a Member State to an owner of a fishing vessel flying the flag of that Member State, or to legal or natural persons for the purpose of being used on such a vessel. Transferable fishing concessions may be pooled together for collective management by legal or natural persons or recognized producer organisations. Member States may limit eligibility for receiving transferable fishing concessions on the basis of transparent and objective criteria.

5. Member States may limit the period of validity of transferable fishing concessions to a period of at least 15 years, for the purpose of reallocating such concessions. Where Member States have not limited the period of validity of the transferable fishing concessions, they may recall such concessions with a notice of at least 15 years.

6. Member States may recall transferable fishing concessions with a shorter notice in the event of an established serious infringement committed by the holder of the concessions. Such recalls shall be operated in a manner which gives full effect to the Common Fisheries Policy, the proportionality principle and, whenever necessary, with immediate effect.

7. Notwithstanding paragraph 5 and 6, Member States may recall transferable fishing concessions that have not been used on a fishing vessel for a period of three consecutive years”.

¹³ Article 33 (Allocation of fishing opportunities not subject to a system of transferable fishing Concessions): “Each Member State shall decide how fishing opportunities assigned to it in accordance with Article 16, and which are not subject to a system of transferable fishing concessions, may be allocated to vessels flying its flag. It shall inform the Commission of the allocation method”.

¹⁴ The minimum duration of TFC is set at 15 years.

further its integration into national legislation and therefore, its protection. Indeed, this would avoid to apply “one-size-fits-all” management models that are most often drawn from specialized fisheries (by species or techniques), historically implemented according to industrial principles. Special attention should be paid by policy makers and fisheries managers to the territorial and flexible (polyvalent) dimension of small-scale fisheries, as well as to the increasing complexity of coastal areas in terms of use conflicts and environmental threats. Again, coordination and exchanges driven by the GFCM could help to achieve this goal. In anticipation of the finalization of the reform project, representatives of the professional sector initiated, since late 2010, a process of mutual adjustment (legal and institutional) around a Mediterranean platform. This initiative is supported at a broader scale by many Non-Governmental Organizations (NGOs). At present, professionals from 4 countries (Spain, France, Italy, Greece) are joining forces to gradually bring the claims and common proposals to the European institutions. The context of Mediterranean fisheries allows the platform to organize and structure its work around a relatively dynamic transversal work program.

11. Ms Brigitte D’Offay introduced the National Aquaculture Legislative Overview (NALO) fact sheet collection, which is an FAO online collection of legislative country reviews that provide information on national aquaculture legislation and regulations and is the result of a joint collaboration between FAO Aquaculture Service (FIRA) and FAO Development Law Service (LEGN). It was underlined that as aquaculture is a fast growing sector, there is a need for reliable and accessible information on aquaculture. Several web-based products have been put in place by FAO, the NALO being one of them which specifically deals with the legal and regulatory framework governing aquaculture from the set up of an aquaculture facility to the distribution of aquaculture products. It has proved to be a useful and dynamic tool particularly for those users who do not have a specific legal knowledge.

The scope of the NALO is mainly divided into 4 parts which tackle: the profile of aquaculture legal and regulatory framework; the planning system (authorization system, access to land and water, environmental impact assessment); the operation system (water quality, fish movement, fish health, use of drugs and feed); and food safety (fish processing, quality control system).

To elaborate a NALO fact sheet, LEGN searches for the applicable aquaculture laws and regulations mainly stored in the FAOLEX database (<http://faolex.fao.org/>) and drafts the NALO following a standard template. The NALO, then, is sent to the competent national authorities or experts for validation. Once the official approval is received, the NALO is published by FIRA on www.fao.org/fishery/nalo/search/en. Regarding the coverage of the NALO collection, it refers to the top 40 aquaculture producing countries and to those which have developed some aquaculture laws and regulations and for which information is available and accessible. In October 2011, there are in total 49 NALOs published, among which 7 out of the 24 GFCM Members.

12. Ms Samier introduced the participants to the GFCM SHoCMed Project which aims, *inter alia*, at providing a basis for harmonization of regional production standards, aquaculture policy and legal frameworks across the Mediterranean region. Funded by the Directorate-General for Maritime Affairs and Fisheries (DG MARE) of the European Commission, it is operative since 2008. Within the frame of this Project, a first review on Mediterranean legislation related to aquaculture was undertaken through a workshop on “National legislation on site selection, monitoring programme and environmental impact assessment for finfish marine aquaculture¹⁵”. This workshop, upon analysis of the responses provided to questionnaires compiled by national coordinators¹⁶, identified the space availability/allocation and the licensing procedures as the main constraints and issues to be addressed for the sustainable development of Mediterranean aquaculture. The implementation of specific regulations for aquaculture¹⁷, the creation of “one stop-shop” or “single window” for licensing procedures, the simplification of institutional settings were among the solutions proposed to overcome the regulatory gaps and weaknesses. The concept of “Allocated Zone for Aquaculture” (AZA), introduced during the last GFCM Session and defined as “any spatial

¹⁵ “Workshop on “National legislation on Site selection, Monitoring programme and environmental impact assessment for finfish marine aquaculture” (13-14 July 2009, Vigo, Spain), with the collaboration of the CETMAR Foundation.

¹⁶ The questionnaire addressed the existing rules and procedures governing aquaculture in the Mediterranean including the licensing procedures, the environmental protection and site selection regulatory frameworks. 15 questionnaires were received from GFCM Members.

¹⁷ Regarding more particularly the analysis of national legal frameworks in aquaculture, a review co-written by Rosa Chapela & Marta Ballesteros entitled “Procedures for site selection, regulatory schemes and EIA procedures in the Mediterranean” is being published as a monograph by the GFCM.

planning system or zoning, carried at local or national level¹⁸”, has also proved to be a good instrument to induce self-regulation and improve inter-administrative coordination as well as a tool to avoid conflicts among users. Conceived as an ongoing process, this review on aquaculture legislation within the Mediterranean region is intended to be updated in the near future.

13. Mr Manal Nader presented the institutional and legal setting for coastal zone management in Lebanon, in the light of a project entitled “Integrated Management of East Mediterranean Coastlines” (IMAC). Funded by the European Commission in the framework of the Third Regional Program in the Mediterranean (SMAP III, Contract No. MED/2005/110-659), one of the objectives of this project was to assess the legal and institutional framework for Integrated Coastal Zone Management (ICZM) and forward recommendations and suggestions related to development/updating of legislation, conflict resolution, ways to overcome institutional fragmentation and training needs. As a result of this study, a certain number of gaps, weaknesses and overlaps were identified and several recommendations were formulated, including the enactment and enforcement of a framework law for ICZM and the creation of a central authority in charge of its planning, monitoring and permitting.

GENERAL DISCUSSION ON THE INTRODUCTION OF THE MEETING

14. Following the presentation given by Mr Scovazzi, a brief discussion took place on different issues regarding the international legal framework for fisheries. On the question of the proclamations of Exclusive Economic Zones (EEZ) in the Mediterranean and Black Sea, the meeting was informed that not all Countries in the Mediterranean have claimed maritime zones beyond the territorial waters. In the case of States that have made such a choice, there are varying types of maritime zones, namely “ecological protection zones”, “fishing zones” or “exclusive economic zones”. It was stressed that in case where EEZs are declared by all the Mediterranean States, for geographical reasons, there would not be any high seas area left. Recently, an increasing number of States have claimed an EEZ (e.g. Syria, Cyprus, Lebanon), which indicates the importance of negotiations among the States concerned for the delimitation of their EEZs.

15. Besides, dispute settlement mechanisms set by the UNCLOS were discussed. In this regard, some participants asked about the possible role of the GFCM in fisheries conflicts which may occur between GFCM Members. The Performance Review, which was undertaken during 2009 and 2010¹⁹, also pointed out the necessity to improve the dispute settlement mechanisms enshrined within the GFCM Agreement. Mr Scovazzi pointed out that, under the UNCLOS regime for settlement of disputes, States are not bound to accept the submission to compulsory settlement procedures of any disputes relating to their sovereign rights with respect to living resources. Regarding the possible role of GFCM in peaceful dispute settlement between its Members, it was suggested that the GFCM, through its Compliance Committee, could act as a facilitator.

16. It was also stated that nowadays many legal frameworks are governing the fisheries management at international, regional, national and even local levels. For some, this situation creates complexity, in particular at regional and international levels. In response to that concern, Mr Scovazzi stressed that what really matters is to ensure consistency between these legal frameworks. Legal complexities are also a consequence of the problems posed by the depletion of resources. In this field, what is needed is not only to have a coherent set of legal provisions of good quality, but also reliable scientific data on which they can be based and efficient means to ensure monitoring and control, including enforcement against violations.

17. Regarding the “National Aquaculture Legislation Overview” (NALO), the participants who were not aware of the existence of the NALO acknowledged the importance and usefulness of such a database. As underlined by many of them, laws and regulations dealing with aquaculture in their countries are disparate as they are found in several acts. In this regard, the NALO is a convenient tool as it gives a general overview of the aquaculture sector from a legal perspective. Some participants from countries of the Mediterranean and

¹⁸ See the draft Report of the “Workshop on Allocated Zones for Aquaculture (AZA)”, Seville, Spain, 18-20 October 2010, p. 6 (available online at the following URL: http://www.faosipam.org/?pag=content/_ShowPortal&Portal=SHOCMED).

¹⁹ GFCM Performance Review of the General Fisheries Commission for the Mediterranean and Black Sea, 2011 (available online at the following URL: http://151.1.154.86/GfcmWebSite/GFCM/35/CAF_II_2011_Inf.5_COC_V_Inf.4_GFCM_XXXV_2011_Inf.8.pdf).

Black Sea region non-represented on the NALO database expressed their will for the NALO database to be enhanced and have manifested their intention to collaborate with FAO towards the achievement of this goal.

18. In this context, the meeting recommended the submission of the information related to aquaculture legislation, preferably in one of the six FAO official languages or, at least, a translated version. The use of such a database also for marine capture fisheries and inland aquaculture was found particularly relevant by the meeting.

19. In terms of allocation of zones for aquaculture, the interaction and potential conflicts between sectors (small-scale/coastal fisheries, tourism, navigation, etc.) require a management system based on ICZM where GFCM can have an active role. In this respect, the GFCM's intention to have a Ministerial Conference on Aquaculture in 2013 was expressed by the Executive Secretary. The meeting welcomed the organisation of such an important event, especially 10 years after the holding in Venice of the Ministerial Conference for the sustainable development of the fisheries in the Mediterranean.

NATIONAL FISHERIES LEGAL FRAMEWORKS IN THE REGION

20. A total of 17 presentations were given by participating national experts with respect to the main sections of the "Questionnaire on fisheries legislation in the Mediterranean and the Black Sea" which was previously drafted by the GFCM Secretariat and submitted to both Members and Non-Members of the GFCM in the region. Five topics were addressed in particular, namely: the national legal framework; the access regimes to fisheries resources; the conservation and management measures; the monitoring, control and surveillance; and the enforcement procedures and sanctions.

Albania (by *Arian Palluqi*)

21. In Albania, a new law "On fishery" has been drafted and has now entered the final stage of the approval process. This new law is based on the main principles of the CFP, various EU regulations as well as GFCM recommendations. The legal regime governing access to marine resources is being regulated by a licensing system. Regarding conservation and management measures, minimum legal sizes and minimum mesh sizes have been imposed for certain species and fisheries. Albania has already an operational vessel register system. It is forbidden to trawl at less than 3 nautical miles (nm) from the coast or inside the 50m isobath when this distance is reached at a smaller distance from the shore.

The responsible authorities for monitoring fishing activities and fishing efforts include the fishery inspectors, the monitoring section in the Fishery Department and the Inter-institutional Maritime Operational Centre (IMOC). A VMS and a radar/satellite system for Automatic Identification System (AIS) of the marine vessel activity has been installed within the IMOC. In the new draft law, besides civil responsibility, administrative and criminal penalties, a "Point System" is also provided for serious infringements.

Algeria (by *Fella Oukaci*)

22. The main fisheries legal framework in Algeria is the Law n°01-11 of 3rd July 2001 related to fisheries and aquaculture. It defines the general rules of the management and the development of fishing and aquaculture, in line with Algeria's international commitments in terms of exploitation, conservation and preservation of the biological resources of waters under national jurisdiction, including UNCLOS, International Commission for the Conservation of the Atlantic Tunas (ICCAT) and GFCM. The Minister of the fishing and fisheries resources is the authority in charge of the conservation, protection and management of such resources. He works in close collaboration with several government authorities, including: Ministry of Transport, Ministry of Defense (coast guards), Ministry of Agriculture (veterinary authority). While Algerian territorial waters extend to 12 nm, a fishing zone has been also established 32 nm between the western maritime border and Ras Ténès and 52 nm between Ras Ténès and the eastern maritime border. According to Article 17 of the Law n°01-11 of 3rd July 2001 related to fisheries and aquaculture, maritime

fishing is practiced in 3 different zones, namely: the coastal fishing zones (interior waters), the deep-seas fishing zones (waters under national jurisdiction) and the high-seas fishing zones (beyond the deep-seas fishing zones).

The access regime to fisheries resources is governed by the Decree n°03-481 of 13 December 2003. It is subject to a prior annual authorization for commercial (including bluefin tuna fishing since the Order of 19 April 2010), shore and recreational fishing as well as diving activities. In these three latter cases, and according to Order of 12 June 2005, the authorization is issued to the fisher, while it is delivered to the operator for each vessel. Fishing permits are required for foreign vessels, scientific and prospective fishing (whether by national or foreign vessel). In terms of conservation and management, several technical measures have been enacted, such as, for instance, prohibited fishing zones or biological recovery periods (e.g. pelagic, semi-pelagic and bottom trawls are forbidden from 1st May to 31 August each year and within 3 nm). Fishing gears are classified into several categories and subject to different requirements depending on the fishing activity. Fishing gears, whose import, manufacture, detention and sale are forbidden, are also specified in a nomenclature. Legal minimum sizes are to be respected. However, a tolerance threshold of 20% is applied and fishing products to be used for growing, farming and research are not subject to them.

Several authorities are empowered to control fishing activities: fisheries inspectors, judicial police officers, naval forces vessel commanders, coastguard national service agents. In addition to criminal sanctions (fines and imprisonment) set out by the Law n°01-11 of 3rd July 2001, administrative sanctions are also provided for in the Decree n°03-481 of 13 December 2003. However, penalties are in general considered not effective, dissuasive and proportionate enough and a discussion was ongoing at national level, within the second “*Assises nationales de la pêche et des ressources halieutiques*”²⁰ as to how, *inter alia*, improve the repressive arsenal, thus making IUU fishing both unprofitable and unattractive.

Bulgaria (by Deljan Blagoev)

23. Being a Member State of the EU since 2007, the Republic of Bulgaria is obliged to apply, implement and enforce the EU fisheries legislation. The main law that coordinates the activities in the sector is the Fisheries and Aquaculture Law. Not all terms, objectives, scopes and applications are included in this law. Many texts related to the fisheries activities can also be found in the Maritime spaces, internal waterways and ports of Republic of Bulgaria Law, the Biodiversity Law and the Protected Marine Territories Law. Because of the specific character of the Black Sea region, some terms are not defined including: artisanal fishing, national/foreign vessel, fishing gear, fishing equipment. In the Fisheries and Aquaculture Law, there is a list of forbidden fishing gears and equipment.

The access regime is set according to Chapter 3 of the Fisheries and Aquaculture Law, which regulates the whole process of the issuance of permits and their extension or cancellation. No long-term fisheries resources management plans have been established for the Black Sea. Only two of the species targeted in the region are subject to quotas, namely the turbot and the sprat. The access for foreign vessels to the Black Sea waters is regulated in accordance with the relevant European legislation. Having ratified the GFCM Agreement in 2006, Bulgaria provides to the GFCM Secretariat information on the number and the type of the fishing vessels, as well as any other information required. Regarding the administrative framework, the National Agency of Fisheries and Aquaculture (NAFA), along with the Executive Agency “Maritime administration” and the General Directorate “Border Police”, perform joint activities for the registration and control of the fishing vessels (whether under national or foreign flag). By law, the persons conducting commercial fishing should have a license. The licenses are issued by NAFA after a training course and successful exam, which are organized in compliance with an ordinance of the Minister of Agriculture and Food. Vessels flying the national flag do not carry out fishing activities outside Black Sea waters.

Commercial fishing permits in the waters of the Black Sea are issued according to the Bulgarian fleet capacity reference level, as set out in EU regulations. NAFA undertakes research on the stock status of the turbot and sprat and, upon the scientific advice of the Science and Technology Council on Fisheries and

²⁰ Initiated in 2010, the second “*Assises Nationales de la pêche et des ressources halieutiques*” were aimed at assessing the last five years of implementation of the legislation in force, in consultation with professionals of the fisheries and aquaculture sector, scientists as well as the different ministerial departments concerned.

Aquaculture (STCFA), proposes to the Minister of Agriculture and Food the determination of total allowable catches and quotas for the different fish species and other aquatic organisms. The Minister of Agriculture and Food, with the approval of the Minister of Environment and Waters and upon the opinion of STCFA, determines also temporary closures for commercial and/or recreational fishing. The bottom trawling is forbidden by the Fisheries and Aquaculture Law, as well as the catching, carriage, transport and trade of marine mammals. The same legislation envisages minimum catching size for all species of fish and aquatic organisms living in national waters. A National plan on the control of the catches and landings is elaborated each year, after approval by the Executive Director of the NAFA. This plan re-allocates the fishing rights and quotas among the fishermen fishing the turbot in the Black Sea. With respect to area restrictions, five protected zones have been established, in which any activity is forbidden, except those listed in the "Protected Territories Law". A plane wreck was sent to the bottom on 25 May 2011, near the summer resort "St. Konstantin and Helena", at 2 miles from the coast and at depth of 22 meters, in order to be used as artificial reef and underwater attraction.

The legislation in force regarding monitoring, control and surveillance (MCS) is based on several Regulations and Ordinances such as: Regulation 1224/2009, Regulation 1967/2006, Ordinance 43/2001 on the fishing logbook and declaration of origin requirements, Ordinance 7/2006 on the conditions of use, maintenance and protection of the system for monitoring and control of the fishing vessels and equipment on board. The NAFA along with the "Border Police" are responsible for carrying out sea and port inspections. A centre for monitoring fishing vessels equipped with VMS has also been put in place. Anti-corruption initiatives and mechanisms are provided by the Penal code, Chapter 4 ("Bribe"), while Chapter 8 ("Administrative and punitive provisions") sets up the penalties and sanctions for the different infringements. Priority issues related to commercial fisheries are as follows: fishing activities undertaken during the ban period or without permit, catches of undersized individuals, whereas the most encountered problems with recreational fisheries include fishing without a ticket, catches during the ban, use of prohibited fishing gear and methods, catch of individuals below the minimum size.

Croatia (by *Nedica Skakelja*)

24. Croatia is a Member country of GFCM and ICCAT and is a party by succession of the UNCLOS. In the framework of regional cooperation, Croatia transposed the FAO Code of Conduct for Responsible Fisheries, and is complying with its international obligations in the field of fisheries. The legal framework governing fisheries management is the Marine Fisheries Act (OG 56/10, 127/10 and 55/11), regulating the basic issues such as management of aquatic resources, fleet management, reporting obligations, aquaculture, MSC measures as well as inspection issues. According to Croatian legal system, the Act is the basis giving the Minister in charge of fisheries the power to regulate specific issues by way of sub-laws (Ordinances, Orders, Ministerial Decrees, etc.).

The responsibility for managing resources is centralized, and is within the competence of the Ministry of Agriculture, Fishery and Rural Development, namely its Department of Fisheries. The only exception to this rule is the delegation of functions on control and inspection, whereby the Act foresees the involvement of Coast Guard, Maritime police, Port authorities and State Inspectorate in activities falling under this chapter. Marine aquaculture is regulated by the Act, but in practice its planning is governed by legal frameworks falling under the responsibility of other ministries (Ministry of Environmental Protection and Physical Planning, Ministry of Sea Affairs). The sector is organized in chambers, cooperatives and NGOs. Croatia operates a licensing scheme, and has established the "Fleet register" and the "Register of licenses" for commercial fisheries. Sport and recreational fisheries also need to be licensed to operate.

Croatia manages its fishing fleet capacity by ordinances governing the issuance of licenses and entry into the fleet register. Buy-off of licenses has been initiated in 2006. The fishing effort is regulated through a complex set of regulations governing gear characteristics and dimensions, as well as temporal and spatial closures and definitions of vessel limitations for operation in certain areas. Other technical regulations include minimum landing sizes, closed seasons, specially protected areas, minimum mesh size etc. In terms of MCS measures, Croatia has introduced the logbook in 2001 and the sales note obligation in 2009, which enable the cross-check of data. A VMS has been introduced in 2006, and is now being installed on all fleet over 15 meters. Croatia started the installation of the electronic logbook and the installation of an AIS is also

foreseen. The Marine Fisheries Act provides for enforcement procedures and allows for a wide range of penalties, including administrative and criminal sanctions. Strengthening of human and technical capacities in inspection and control, as well as development of all “Standard Operating Procedures”, are considered to be of high importance.

Cyprus (by *Lavrentios Vasiliades*)

25. The administrative authority over the marine fisheries sector in Cyprus is the Department of Fisheries and Marine Research of the Ministry of Agriculture Natural Resources and Environment. Mechanisms designed to involve fishermen communities and interested parties in the decision-making process exist for the formulation of fisheries policy. Cyprus is party to various international instruments such as UNCLOS and the Barcelona Convention. The national legislation requires that all vessels operating within territorial and/or international waters hold a fishing authorization. The Fisheries Basic Act governs the access to marine resources.

A prerequisite for licensing is the submission of fishing applications each year. Vessels licensed are included in the “Fleet Vessel Register”. Duration of the fishing license is annual and licenses are not transferrable. Licenses can be suspended or revoked. Measures in place designed to control fishing effort are stipulated in the Fisheries Basic Act and the EU regulations governing the number of licenses, area/time and gear restrictions. The act provides also for the establishment of artificial reefs and marine protected areas, prohibited species, recreational fisheries restrictions related to access (e.g. license required regarding boats and certain gears, like spear guns) as well as MCS measures.

Egypt (by *Madani Ali Madani*)

26. The General Authority for Fisheries Development is the competent authority to apply most of the legislation in Egypt, along with other institutions such as the maritime inspection authority, the Ports and Lighthouses administration, the Egyptian Environmental Affairs Agency. Scientific institutions are also acting as scientific advisory body. The fishermen and fishing boats owners are involved in the decision-making through membership of the Fishermen’s Cooperative Union in the High Committee for fisheries management. An integrated coastal zone management Committee, in line with the Barcelona Convention requirements, has been recently created to address the competition between several ministries for utilization of the coastal zone areas, and which include all of the entities involved in the management of the utilization of the coastal zone area.

The Egyptian legislation provides for an appropriate regime to access fisheries resources as well as adequate measures for their management, in line with international recommendations, such as: the registration of fishing vessels, the protection of certain species, the establishment of closed seasons and protected areas. While the monitoring, control and surveillance system in place at ports proves to be effective, there are still several deficiencies in the application of a good monitoring, control and surveillance activity at sea. In this respect, the VMS has not yet been put in place in Egypt but it is planned to be installed before the end of 2012. The enforcement procedure as well as the sanctions provided for vessels engaged in illegal fishing were also underlined.

France (by *Nicolas Gorodetska*)

27. At the international level, France is a contracting party to all the relevant agreements directly related to fisheries’ management (i.e. UNCLOS, UNFSA, FAO Agreement on Port State Measures) or indirectly (i.e. Barcelona Convention, CITES). At the European level, France, as a Member State, is part of the decision-making process for the adoption of conservation and management measures within the EU and applicable in the Mediterranean area. The recommendation proposals that EU submits to GFCM or to other international fora are also formally discussed and adopted by the EU Member States according to the EU internal rules, then presented and negotiated by the European Commission in the name of the EU.

The action of the EU is driven internally and externally by a set of principles mentioned in the Treaty on the functioning of the European Union (Lisbon Treaty), namely: “to ensure a prudent and rational utilization of natural resources”; “to promote a sustainable development”; and “the conservation of marine biological resources under the Common Fisheries Policy (CFP)”. The upcoming creation of a French EEZ, whose limits will be similar to the present “*Ecological Protection Area*,” will extend the remit of the CFP and increase the EU’s capacity to manage fishing activities, and especially to control vessels from third countries operating in that zone.

Although the EU has an exclusive competence for matters related to the CFP, Member States may exercise their competence within the 12-mile zone. Indeed, a Member State may take measures for the conservation and management of resources provided that: the Community has not adopted previous regulations, those measures are not discriminatory, and that the Member State measures are not less stringent than the existing Community legislation. The decision making process in France is partly devolved to local administrative authorities, which are thus entitled to adopt legal rules that are valid for a designated area. The fishermen communities (called “*prud’homies*”) are also involved in the fisheries’ management and a devolution of powers from the administration to these communities is a Mediterranean idiosyncrasy worth noting. These communities have launched innovative projects such as non-fishing zones.

As far as management is concerned, a solid control of the input has been implemented through a system of fishing authorization (by species, by gear, by geographic areas), a control of capacity (entry/exit regime), of fishing effort (*numerus clausus*, strict regime for trawlers). A particular emphasis is put on the protection of coastal areas. The global trend is that of a decrease of the input, which is now being accelerated by economic difficulties, scrapping programs and seasonal closures.

As far as control is concerned, the different administrations in charge of enforcing the control procedures are coordinated to ensure their efficiency and standardization. They can resort to a various range of sanctions. Nonetheless, compliance cannot be ensured only by sanctions but has to be encouraged by a bottom-to-top management approach and by engaging all stakeholders in the decision-making process.

Italy (by *Michele Lariccia*)

28. In Italy, fishing activities are managed at four levels: local and/or regional, national, European Union and global, the most important levels being national and European Union. At national level, the administrative authority over the fisheries sector is the Aquaculture and Fishery General Department of the Ministry of the Agriculture, Food and Forestry Policies, which implements and enforces many regulations such as: Law 963/1965, Decree 1693/1968; Decree 142/2004; Decree. 143/2004; Decree of 26 July 1995 on the regulation of the licenses. The key concepts used by lawmakers as regards of objective are the sustainability and the precautionary approach.

The access regime to fisheries resources is governed by many rules and requirements. The fleet is divided into different categories, namely: local coastal fishing, near-coastal fishing, until 6 miles off the coast, until 40 miles off the coast, high-sea fishing, in the waters of the Mediterranean Sea, oceanic fishing, beyond the Straits. Fishing vessel must obtain a license which depends on the type of fishing gears used (12 different categories). Each license issued may authorize more than one type of fishing gear. The issuance of any new license is currently frozen, this being an important measure to control the fishing capacity. Special licenses exist also for specific activities. Since the Decree of 6 December 2010, recreational fishers must also obtain a permit. The Decree of 14 September 1999 defines small scale fishery (artisanal fishery) as the fishing carried out by vessels having an overall length of less than 12 metres, operating within the 12 mile zone and having one or more of the following gears: passive gears, drift nets, long line, harpoon. This typology has proved to be very useful and many regulations regard the management of this activity.

Regarding conservation and management measures, multi-annual or specific plans prove to be important and innovative tools. The reduction of the fishing capacity is carried out with the economic incentive derived from national and EU funds and plans, while the reduction of fishing effort is mostly managed through closed seasons in Adriatic and Tyrrhenian Seas (e.g. establishment of a one/two-month closed fishing season for gears which have the most critical impact on the resources, especially demersal species like cod). There are also a number of limitations regarding the characteristics of the gears as well as the minimum sizes for

the captures. The system of total allowable catches, however, only applies to bluefin tuna fisheries. With regard to areas restrictions, 13 biological protected areas (*Zone di tutela biologica*) have been specifically created to protect important zones for recruitment and 27 Marine Protected Areas (MPAs) have been established by the Ministry of Environment to preserve coastal zones from human activities. The use of trawl nets and purse seine are also prohibited in several zones.

The monitoring, control and surveillance are carried out by the Ministry of Agriculture, Food and Forestry Policies through the Italian Coast Guard ("*Capitanerie di Porto*"), which is in charge of inspections in ports and at-sea. The legislation provides for a wide range of administrative and penal sanctions.

Lebanon (by Samir Majdalani)

29. Lebanon is in the process of issuing a new fisheries law to replace its outdated one (Law 2775 on the control of coastal marine fishing of 28/9/1929). The fisheries legal framework revolves around laws, decrees, and Minister's decisions. The latest decision is the ban on fishing and trade of puffer fish. Access to fishery resources is through licensing, whereby fishing is limited to coastal areas (<6nm from coast). The jurisdiction of the Ministry of Agriculture is limited to the issuance of licenses for coastal and recreational fishing, as well as for scuba diving and use of speargun.

Conservation measures are limited to the establishment of one natural reserve in one small island with ban on fishing in its immediate proximity. There are also few regulations concerned with conservation like the minimum allowable fish size and ban on whaling and catching seals and sea turtles.

The army and police assist in monitoring and control. However, the Department of Fisheries is mandated to perform enforcement of fisheries legislations. Fisheries Guards/Rangers placed in outposts along the 220 km coastline carry this out. However, law enforcement is ineffective due to limited tools like patrol boats. The Rangers can issue citations and confiscate illegal items, but a judge can issue the ruling on penalties that can be a fine, confiscation of items, and/or prison term.

Malta (by Louis John Fresta)

30. Some of the most important enactments governing the exploitation and protection of marine species are the Fisheries Conservation And Management Act (Cap. 425) which provides for the regulation, conservation and management of the fisheries of Malta and matters incidental thereto; the Environment Protection Act (Cap. 435) and the Development Planning Act (Cap. 356), which provides for the conservation of natural habitats and of wild fauna and flora in the Maltese Islands. The Merchant Shipping Act (Cap. 234) also sets health and safety measures at sea. A recent legislative instrument, the Enforcement of Sea Fishing Conventions Order (LN209/11, LN282/11) and its amendment (LN282/11), provides for the enforcement of restrictions and obligations relating to sea fishing in conventions to which Malta is a party, thus offering a flexible tool for maintaining the national legislation regularly updated and transposing new regulations over the short term.

While the legislative framework provides a large list of definitions, the list is not exhaustive and a certain degree of deviation exists between national and international law. Access to marine resources occurring within the national waters by both national and foreign fishing vessels is managed by the Fisheries Conservation and Management Act (Cap. 425). The legislative framework provides the tools to identify the fishing waters of Malta and is applicable to vessels fishing in Maltese territorial waters and to vessels flying the Maltese flag, which are subject to fishing licenses, pre-notification for catches and landing, gear limitations and other measures. At local level, a ceiling fishing capacity is applicable. Furthermore, a 25-mile management zone around Malta is applicable, which is limited to fishing vessels smaller than 12 meters overall length using other than towed gears. Trawlers not exceeding an overall length of 24 meters are allowed to fish in certain areas within the management zone. Fisheries are managed by the Fisheries Control Directorate, whereas environmental planning and biodiversity management are addressed by the Malta Environment and Planning Authority (MEPA). The role of the latter is to, *inter alia*, provide for the monitoring and management of biodiversity; provide for the conservation, protection and management of particular habitats or categories thereof in order to safeguard biodiversity; declare any areas or sites on land,

internal, territorial waters or beyond where Malta may have jurisdiction for the purpose of the protection and control of the environment.

There are a number of areas that have been identified and covered by various legal instruments. In these areas, fishing is either totally banned or restricted (e.g. fishing activities are restricted only to trolling one mile around the islet of Filfla, or completely banned 200 meters around all wrecks used for recreational diving along the coast). MEPA has also designated Special Areas of Conservation. With particular reference to Government Notice 851 of 2010, these areas are not subject to management measures as yet. Therefore, there are no restrictions of fishing activities within such areas. MEPA is currently working on policy guidance aimed at strengthening the protection (regime) of threatened species and which will serve as a framework for developing species action plans.

To ensure the enforcement of these measures, a wide range of prohibitive fines and penalties are provided: from small fines for first offences to additional fines and penalties for subsequent ones; suspension, cancellation and/or revocation of fishing license; temporary or permanent exclusion or removal from the fishery; seizure and confiscation of fish involved in the commission of the offence; seizure and confiscation of gear and equipment involved in the commission of the offence; temporary immobilization of vessel involved in the commission of the offence. Priority issues, faced to some degree by Malta for the effective implementation of national and applicable international legislation, include the non-compliance with legal minimum sizes, the non-compliance with rules and procedures governing the landing of fishing products and the lack of human resources.

Montenegro (by *Deniz Frljučić*)

31. The Law on Marine Fishery and Mariculture was adopted in 2009, in partial conformity with EU legislation. However, in 2012, important amendments to the Law are foreseen in order to fully comply with EU regulations and GFCM recommendations.

Fishing activities are classified into 3 categories, depending on their purposes: commercial, sport/recreational and scientific research. All these activities require the prior permission of Ministry of Agriculture and Rural Development. Based on the research of the Institute of Marine Biology, the Ministry determines the number of fishing vessels which can carry out commercial fishing over the year. Fishery Information System, statistics, as well as other activities in the field of fisheries are taken care of among different units within the Ministry.

The control of fishing activities is carried out in-port, by the marine fisheries inspectors and at-sea, in cooperation with the border police. An ongoing Instrument for Pre-Accession Assistance (IPA) project “*Support to sustainable marine fishery*” aims to establish a VMS, prepare reports on fishing for vessels below 10 m length overall, reinforce fisheries inspection through training by experts in the field, and strengthen the capacities of the Institute of Marine Biology in order to ensure an efficient monitoring of pelagic and demersal fish species.

Morocco (by *Said Taleb*)

32. Morocco has put in place, since 1910s, an arsenal of laws and regulations specifying the extent of the fisheries and regulating its practice. Enacted on 31 March 1919, the Merchant Shipping Code governs all the components of the maritime field related to trade, navigation and marine fisheries. The Law n°1-73-255 of 23 November 1973 is, on the other hand, primarily designed to regulate marine fisheries and therefore provide, *inter alia*, for the requirement of a fishing license, the establishment of temporary or permanent bans for certain species/fisheries and more stringent regulations on the use of fishing gear/methods and on the pollution of sea from industrial sources. Criminal and civil penalties for non compliance with regulations of fishing activities are also included.

In 1981, Morocco set up a national law on the maritime area, enacting, on one hand, the extent of its territorial waters to 12 nm and, on the other hand, claiming the EEZ. In terms of international and regional cooperation, Morocco has ratified the key international instruments and conventions on the protection of resources and marine ecosystems. In order to honor its commitments to the international community and

guarantee a sustainable and rational management of fisheries resources, Morocco has continuously updated its legislation. Specific regulation has been therefore provided for the granting of Moroccan flag, the access to fisheries resources and areas, the use of certain fishing gear, the commercial size of species, the system of control and catch monitoring (including through the establishment of a traceability system of catches), the establishment of consultative bodies between administration, scientists and professionals. A draft law on the preservation of ecosystems and on the protection of the marine environment against pollution has been recently developed and submitted for legislative approval.

Romania (by *Haydar Fersoy*)

33. In Romania, the State Agency for Fisheries and Aquaculture is the principal authority responsible for fisheries and aquaculture. The fisheries are managed at national, regional and EU levels. Romania is party to a number of international fisheries instruments and declared EEZ in Black Sea. Access to fisheries is subject to a permission through a licensing system. National fishing resources can be used by foreign vessels under certain conditions, respectively based on national legislation and EU regulations.

Fishing capacity is being managed in accordance with the threshold level set by the EU legislation. Total allowable catch is being used for two species (turbot and sprat). The national regulations, developed in accordance with the minimum requirements of the EU legislation, include detailed rules, among others, on fishing time and season, fishing gear and equipment. Scientific advice is taken into consideration during the process of decision-making. Modernization of the national fleet, stock assessment, strengthened management and conservation rules, enhanced controlling are examples of prioritized issues in terms of fisheries management.

Slovenia (by *Jernej Švab*)

34. Slovenia is bound by the obligations and restrictions imposed by the international fisheries organisations and regional fisheries management organisations to which the country is party to. The main fisheries act in Slovenia is the Marine Fisheries Act of the Republic of Slovenia which was published in 2006. It regulates the management of marine fisheries resources and allows for the implementation of the EU CFP. Slovenian fisheries legislation applies also to national vessels operating outside waters under national jurisdiction. It is published in the Official Journal and also available on the internet. The main entity responsible for the fisheries management is the Ministry of Agriculture, Forestry and Food (MAFF). Other official bodies are the Inspectorate of the Republic of Slovenia for Agriculture Forestry and Food (IRSAFF), the Fisheries Research Institute of Slovenia (FRIS) and the Maritime Administration of Slovenia (SMA).

Regarding the access to fisheries resources, Slovenia has concluded an agreement on mutual access with Croatia (Border Traffic and Cooperation Agreement of 2001), which is yet currently not implemented. The fisheries management and licensing system is conducted in accordance with the EU CFP. However, recreational fisheries at sea are regulated at national level. Three special protected areas have been established, which represent a quite significant part of the national territorial waters. In these areas, any kind of fishing activity is prohibited, except for the holders of special permits with a limited duration and issued only for special purposes.

The IRSAFF, along with the Hunting and Fisheries Inspection are responsible for the monitoring, control and surveillance. Fishing logbooks have to be completed by all national vessels regardless of the quantity or species of fish caught and all vessels above 15 meters are equipped with a VMS. Slovenia is also in the process of equipping all the vessels using towed gear with VMS.

In order to resolve conflicts between the different users of the marine environment, a special regime exists for vessels using passive gear (bottom-set nets) and for vessels using active gear (towed gears). Another rule provides also that in a restricted area, cargo vessels have the priority over fishing vessels. The legislation also provides for administrative procedures and a wide range of penalties, including: suspension of fishing license, temporary or permanent withdrawal of fishing license, confiscation of illegally caught fish, gears and equipments involved in the commission of the offence and temporary immobilization of the vessel. Over the last five years, the number of offences is decreasing. Nevertheless, there is a need to change and modernize

the national legislation, especially to meet some EU requirements such as: the entry/exit regime, the licensing procedures or the new Control Regulation. In addition, the new proposal of Common Fisheries Policy is currently under debate.

Spain (by *Encarnación Benito-Revuelta*)

35. The national waters comprise interior and territorial waters, as well as the fisheries protection area established by Royal Decree 1315/1997²¹. As a Member State of the European Union, the fisheries legal framework is based on EU legislation on CFP, mainly on Council Regulation (EC) n°2371/2002 and Council Regulation (EC) n°1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea. The national fisheries legal framework is established by Law 3/2001 for State Maritime Fisheries, which points out the measures to be taken in exterior waters in terms of: conservation (i.e. regulation of gears, fishing effort, areas or times of no-fishing, limitation of catches, minimum sizes), protection and regeneration (i.e. protection areas, preventive measures), fisheries activity management for rationalization of fishing effort (i.e. fishing vessels register, fishing authorizations, logbook, landing declarations), recreational fisheries as well as control and inspection.

Furthermore, each fishing gear has its own regulation with respect to fishing capacity, effort (maximum days at sea) and technical characteristics. Regarding management plans, the Ministerial Order ARM/143/2010 establishes a comprehensive Management Plan for the conservation of fisheries resources within the Mediterranean, in the wake of the one established in 2006. It concerns the whole Spanish Mediterranean fishing fleet and mainly aims at reducing fishing effort and establishing measures such as: closed areas; authorized distances and depths for trawling; protected habitats; prohibited gears or volume of daily landings for some species.

Autonomous Communities exert exclusive competence within internal waters, harvesting of shellfish and aquaculture, as established in the Spanish Constitution. The legal framework is completed with the international instruments and organisms Spain or the EU are parties to. Regarding GFCM recommendations, they are mostly implemented through EU regulations and national legislation. For simplification and juridical security at EU level, the “Proposal for a Council Regulation on certain provisions for fishing in the GFCM Agreement Area²²” provides for the permanent transposition of future GFCM recommendations into Community law. During the presentation, access regime issues, conservation and management measures (i.e. fishing capacity, fishing effort, marine reserves, recreational fisheries, etc.), monitoring, control and surveillance measures (EU main provisions and national ones) and enforcement procedures and sanctions were also pointed out.

Tunisia (by *Hechmi Missaoui*)

36. Tunisian fisheries legal framework is governed by several laws, decrees, orders and circulars. The main legislation is the Law 13-94 of January 1994 and the Order of 18 September 1995, which is in compliance with the international and regional obligations set out, *inter alia*, by GFCM, ICCAT, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS) and based on the results of fisheries research in the context of coastal and marine resources.

Access to the resources is managed through the issuance of individual permits for fishing boats and coastal trawlers. Some species (e.g. squid, clams, lobster, prawns, tuna, swordfish) are subject to fishing trips which are limited in time and space and for which special permits are required. Fishing capacity is controlled through a national consultative Committee, whereas the fishing effort is limited, *inter alia*, through the reduction of the construction of benthic units, the introduction of a biological recovery period in areas fully exploited, the establishment of marine reserves in sensitive areas and artificial reefs in the South, the

²¹ Spain has proclaimed a 200-mile EEZ off its coasts that it is not applicable to Mediterranean waters.

²² See Proposal for a Council Regulation on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement Area, COM (2009)477 final, available online at the following URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0477:FIN:EN:PDF>.

equipment of vessels with VMS. Tunisian territorial waters extend to 12 nm. However, in 2005, Tunisia has developed a law defining an EEZ. An implementing decree is currently under preparation. Coastal surveillance is conducted by the joint effort of the services of the Ministries of Defense, Interior, Agriculture and Environment and the Ministry of Finance. Severe sanctions are taken against IUU fishing.

Turkey (by *Esra Fatma Denizci Toslak*)

37. In Turkey, fisheries and aquaculture activities are based on the Fisheries Law 1380 of 1971. This law provides, *inter alia*, for the management of fisheries, licensing rules, prohibited substance, procedural provisions, inspection, control and penal clauses. Notification 2/1 Regulating Commercial Fishing is the main legislative instrument setting technical measures with regard to: fishing gear, season, areas, protected areas, limitation on landing size, prohibition on species and others issues. The Ministry of Food, Agriculture and Livestock (MoFAL) is the main authority responsible for the fisheries administration, regulation, protection, control and inspection. All natural persons involved in fishing as well as fishing vessels must obtain a license. Fishing Law 1380 does not allow foreign vessels to take part in commercial fishing activities. In Turkey, artisanal fishing is mostly carried out through the coastline. This fishery constitutes the bulk of fisheries in Turkey. About 80% of the national fishing fleet is composed of vessels less than 12 meters. Since 2002, no new fisheries license has been issued. Furthermore, vessels are not allowed to increase their current capacity.

Control and inspection are performed by MoFAL, Coast Guard Command, Gendarmerie, Customs and forestry institutions and Municipal Police. According to EU Regulation 1005/2008, a number of measures have been taken such as: the establishment of a Fisheries Information System, the registration of fishing vessels, the registration of commercial and amateur fishermen, the issuance of special fishing permit for fishing vessels, quota monitoring of bluefin tuna, baby clams, eel, monitoring of the catches of anchovy sent to cold storage and processing plants. Catch information is collected using the logbook and landing declaration document. Fishing vessels of 12 meters length overall and over are required to maintain logbooks. Bluefin tuna vessels and towing vessels are monitored by a satellite-based VMS. All vessels over 15 meters in size are required to have an AIS device. About 40 Fisheries Port Offices are active and perform a significant number of controls (i.e. fishing gears, transmission of the logbook data to the Fisheries Information System, issuance of transport certificates, collection, evaluation and transmission of fishermen's requests). The sanctions applied are administrative fine; seizure; confiscation of fish, gear and equipment; suspension and cancellation of licenses.

Ukraine (by *Haydar Fersoy*)

38. In Ukraine, the State Agency for Fisheries is the main authority responsible for fisheries. It collaborates with other relevant governmental agencies to the management, monitoring and control of fisheries and fisheries related activities. Ukraine is a contracting party to the main fisheries instruments (i.e. UNCLOS, UN Fish Stocks Agreements) and to other conventions/agreements of relevance to fisheries and environment/nature conservation. Ukraine is a Member of the Commission for the Conservation of Antarctic Marine Living Resources and of Northwestern Atlantic Fisheries Organization. National legislation defines the borders of Ukraine's national waters. Fisheries access to fishing resources is based on a licensing regime. Access by foreign vessel to national marine waters of Ukraine can be exercised under bilateral agreements and the national management and conservation rules set for commercial fisheries.

In the decision-making process, scientific advice produced by the Scientific Fisheries Council and the recommendations of the Community Board (which is formed under the State Agency for Fisheries and includes representatives of fisheries stakeholders) are taken into consideration. Requirements for obtaining a fishing license are not strict and decision on issuance should be taken in not more than 10 days after an appropriate application. The license validity period is 5 years. An authorized fishing license does not define an area of fishing. A moderate license fee is being applied. Occurrence of 3 violations by a license holder is a reason for the licensing authority to deny a permit or revoke an issued permit.

Each type of fishery is regulated by fishing rules. Ukraine has no national regulation that limits fishing capacity. However, in the conservation and management of fishing resources, focus is given to fishing effort

regulations. Catch limits are set for nearly all species of the living aquatic resources subject to fisheries. A total allowable catch regime is being implemented for certain species. Fishing effort limits are established on annual basis. Technical measures (i.e. area and time limitations, legal sizes, by-catch rules) are the principal tools that are used for regulation commercial fisheries. Many protected areas/natural reserves have been designated, including in marine waters. A VMS is mandatory for vessels over 15 meters. Users are obliged to use a logbook for landings/catch. Legislation defines administrative penalties for non-compliance or violations.

GENERAL DISCUSSION ON NATIONAL EXPERTS PRESENTATIONS

39. After each of the presentations, the floor was opened for discussion and questions. On each of the main issues of the meeting, a number of relevant considerations were made.

40. *On the question of the general overview of fisheries legal frameworks*, it results that most GFCM Members have adapted their legislation to international obligations arising from treaties to which they are parties. Only in a few instances, it was noted that the national legislation was enacted before the adoption of the UNCLOS and needed the appropriate updating.

41. The participants believed that the GFCM, as the competent regional fisheries management organization in the Mediterranean and Black Sea, should establish minimum standard rules applying to all GFCM Members, without prejudice to their right to adopt stricter rules, if they wish to do so. It was also remarked that in most GFCM Members, there is a lack of a permanent legal mechanism to transpose into domestic legislation the GFCM Recommendations to which they are bound to give effect.

42. In several GFCM Members, there is also a lack of coordination between different institutions or agencies which are entitled to exercise competencies in the field of fisheries and of related subjects, as the protection of the marine environment. For example, marine protected areas can be established, depending on their purposes, by both the Ministry in charge of Fisheries and the Ministry in charge of the Environment. The general view was that overlaps and gaps should be avoided as much as possible, through a clear allocation of competencies and appropriate means of inter-agency coordination. The question of competencies allocated to regional or local authorities should also be taken into consideration in this regard.

43. All the participants stressed the importance of artisanal and small-scale fishing in the region. This is reflected in many national laws and regulations which however follow different definitions of artisanal or small-scale fishing. The general view was that traditional custom and institutions should be maintained and supported provided that they are consistent with responsible fisheries.

44. Regarding recreational fisheries, they are taken into consideration in the legislation of most GFCM Members. It was stressed that recreational fishing activities should be licensed, as it is already provided in the domestic legislation of several GFCM Members, in order to monitor their volume and to prevent unwanted interference with fishing for commercial purposes²³.

45. Within the framework of national legislation on the exploitation of living resources, there was a general agreement on the need to adopt a specific streamlined legal regime for aquaculture. The regulation of aquaculture should, *inter alia*, provide for mandatory environmental impact assessment (EIA), planning, zoning and a single-window procedure to simplify licensing or authorization system.

46. *Regarding the access regimes to fisheries resources*, it was noticed that all the countries in the region impose a license or authorization requirement for those who engage in fishing activities for commercial purposes in the waters where they exercise sovereignty or jurisdiction for fishery purposes. However, not all of them require a licence or authorization for vessels flying their national flag and operating beyond those

²³ As it was already underlined in the report of the "SCESS Transversal workshop on monitoring recreational fisheries in GFCM area" (Spain, 20-22 October 2010), available online at the following URL: http://151.1.154.86/GfcmWebSite/SAC/13/GFCM_SAC13_2011_Inf.18-e.pdf.

waters. This does not appear in compliance with the principle of responsible fisheries. In some GFCM Members, access to waters under national jurisdiction is limited to national fishing vessels and foreign fishing activities are not allowed. It was also underlined that the licensing or authorization system should be directed to both the fisher and the vessel.

47. *As regards conservation and management measures*, it was underlined that fishing activities should be included into fishing management plans, which is not yet the case for some national legislation. All decisions on plans and conservation measures should be based on the best available scientific evidence. In this regard, fishers under the obligation to provide data on catches and other relevant information should be encouraged to be as accurate as possible. This could be facilitated through enhanced participatory mechanisms which take into account the socio-economic relevance of fishing activities and which involve all the stakeholders, in particular fishers' associations and Non-Governmental Organizations. Furthermore scientific cooperation between institutions active in the region should be strengthened.

48. It was emphasized that total allowable catch schemes are not appropriate for most living resources found in the Mediterranean waters due to the multi-species and multi-gear characteristics of fisheries. All the management recommendations adopted by GFCM need to be duly transposed into national legislation, such as in particular those on the management of fishing capacity, the limitation of fishing effort, the establishment of fisheries restricted areas, the prohibition of some fishing gears as well as the provision of closed seasons.

49. *Regarding monitoring, control and surveillance*, emphasis was put on the need to rely on scientific evidence and on the involvement of the stakeholders also in activities directed at assessing the results of the conservation measures. GFCM Members should take all the measures needed to prevent, deter and eliminate IUU fishing activities, with particular emphasis on port states controls.

50. The role of the GFCM Compliance Committee could be enlarged in order to accommodate for the cases where GFCM Members encounter difficulties or constraints in ensuring control of the compliance with the conservation measures, with a view to finding cooperative means to address them.

51. *As regards enforcement procedures and sanctions*, the meeting found that sanctions of adequate severity should be provided in national legislation and applied also to vessels flying the flag of GFCM Members when they operate in waters beyond their national jurisdiction. National legislation should include also new means to discourage violations, such as point system. Forms of cooperation should be established within the GFCM region to ensure better enforcement of relevant obligations.

52. The possibility of earmarking sums collected from fishing licensing or fines for interventions in the fisheries sector was discussed in depth. The meeting finally felt that it was more advisable to recommend in general that adequate financial resources be devoted directly to measures and interventions to ensure the conservation of living marine resources and assistance to fishers.

53. It was noticed that the legislation of several GFCM Members provides for imprisonment in the case of most serious violations to the rules on fisheries, although the UNCLOS limits sanctions for these kind of violations committed in the EEZ to fines and accessory sanctions, such as confiscation of fish, equipment and vessels²⁴.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

54. The following general conclusions could be drawn from the discussion:

- Marine living resources have a crucial importance in achieving food security and their conservation and management may be affected by several factors, including policy and legislative frameworks;

²⁴ See UNCLOS, Art. 73 (3), available online at the following URL: http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

- All activities of exploitation of living resources in the GFCM Agreement Area need to be carried out in a responsible manner (principle of responsible fisheries), as set forth in the 1995 FAO Code of Conduct for Responsible Fisheries;
- There are a number of international treaties which draw a regulatory framework for fisheries at the global level, such as the United Nations Convention on the Law of the Sea (UNCLOS); the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; the Agreement for the Implementation of the Provisions of the UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks; the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;
- Treaties applying at the global level make reference to, and rely on, regional fisheries management organizations, such as GFCM within its Agreement Area, to give effect to the principle of responsible fisheries;
- In matters already covered by treaties adopted at the global level, regional treaties should ensure a more specific regulation, giving to the former an added value;
- Detailed legislation on fisheries has been adopted by all the Mediterranean and Black Seas riparian States, as well as by the European Union (EU). The question of “legal proliferation” can be addressed by ensuring that all the relevant instruments, adopted at the international, EU or national level, are to be understood and applied as concurring to the pursuance of the same objective of responsible fisheries;
- There is a need to ensure through the appropriate legal mechanisms the highest possible consistency among provisions adopted at the international, regional, EU and national level, to build a coherent regime for fishing and aquaculture throughout the whole Mediterranean and Black Sea region;
- The GFCM is called to exercise its functions, as specified in Art. III of the GFCM Agreement, irrespective of the legal condition of marine waters within the GFCM Agreement Area, be they marine internal waters, territorial sea, fishing zone, EEZ or high seas;
- Parties to the GFCM Agreement, unless they have cast an objection, are bound to give effect to the GFCM recommendations adopted under Art. III, para. 1(b) of the GFCM Agreement, that is to recommendations relating to measures for the conservation and rational management of living marine resources or relating to the implementation of those measures;
- A number of treaties regulate, at the Mediterranean and Black Sea regional level, matters related to fisheries, in particular the protection of the marine environment, such as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and its seven Protocols, the Convention on the Protection of the Black Sea against Pollution (Bucharest Convention) and its three protocols, the Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), or marine scientific research, such as the Agreement establishing the International Commission for the Scientific Exploration of the Mediterranean Sea (CIESM);
- Besides the GFCM, other organizations and conventions, such as the ICCAT Commission and the Secretariats of the Barcelona Convention, the Bucharest Convention, ACCOBAMS and CIESM, exercise their competences in the GFCM Agreement Area. Coordination should be strengthened among all the institutions and treaty secretariats that exercise competences within the GFCM Agreement Area;
- Overlaps or gaps occur in the competences exercised by different national authorities active in the field of fisheries at different levels, central, regional or local;
- Most Mediterranean fishing activities have a multi-species and multi-gear character, which does not allow certain kinds of management and conservation measures, such as total allowable catch schemes;
- Local custom and traditional institutions are specific to certain coastal localities in the GFCM Agreement Area;
- Regulation needs to be extended to recreational fishing activities in the GFCM Agreement Area;

- Appropriate measures relating to: access to fisheries resources, conservation and management measures, monitoring, control and surveillance and to enforcement procedures and sanctions need to be established or strengthened, as suggested in the recommendations hereunder.

55. The meeting agreed on the following recommendations:

- Management instruments adopted within the GFCM framework should achieve legal harmonization through establishing common standards for all GFCM Members, without prejudice to their right to adopt stricter rules;
- GFCM recommendations to which GFCM Members are bound to give effect should be transposed into their domestic legislation, preferably through a permanent legal mechanism, such as a single legislative act where future GFCM recommendations can be added by way of amendments to that act;
- To avoid overlaps or gaps in competences, the highest level of coordination between national authorities exercising their competences in the field of fisheries at central, regional and local levels, should be ensured through periodical inter-institutional meetings;
- A mechanism for periodical inter-institutional coordination and discussion among all the international institutions and agencies active in the GFCM Agreement Area in the field of fisheries and in related fields (such as the protection of the marine environment or marine scientific research) should be established, in order to ensure a better governance;
- Access to fisheries resources, wherever they are located, should be based on a license or authorization that is to be granted also to fishers and vessels flying the flag of GFCM Members that operate in waters beyond their national jurisdiction;
- National legislation should require that fishing activities are carried out according to operational fisheries management plans. The management plans should be based on best available scientific evidence, should take into account the cumulative impact of fishing activities and should be drafted and implemented with the involvement of the relevant stakeholders, such as fishers' associations and Non-Governmental Organizations (NGOs);
- Assistance should be provided to GFCM Members that require technical support for the drawing of fisheries management plans;
- In the instruments for the integrated management of the coastal zone in the GFCM Agreement Area, priority should be given, where necessary, to fishing and aquaculture, as activities taking place in, or requiring the immediate proximity of, the coastal zone;
- Co-operation among institutions active in the field of fisheries and aquaculture in the GFCM Agreement Area should be strengthened, in particular through the exchange of information and the establishment of common data bases;
- Conservation measures to ensure the long-term sustainability of fish stocks and relating to, *inter alia*, the monitoring of fishing capacity and effort, the establishment of fisheries restricted areas, as well as the setting of closed seasons should be fully implemented and enforced;
- Taking into account the socio-economic importance of fishing activities, the relevant stakeholders, such as fishers' associations and NGOs, should be involved through enhanced participatory mechanisms in the process of decision-making;
- Local custom and traditional institutions relating to small-scale fishing activities peculiar to certain localities in the GFCM Agreement Area should be supported if consistent with the principle of responsible fisheries;
- Recreational fisheries should be subject to a licence or authorization to better monitor their extent and to prevent detrimental interferences with fishing for commercial purposes;
- National legislation should be enhanced to fully implement and enforce control and surveillance measures aimed at preventing, deterring and eliminating IUU fishing, with particular emphasis on vessel detection systems and port state controls;

- Specific provisions should be envisaged to deal with cases where GFCM Members face constraints in ensuring surveillance and control on the application of conservation measures, with a view to finding cooperative means to address such constraints;
- Enforcement procedures and sanctions of adequate severity should be established in national legislation and should be applied also to vessels operating in waters beyond their national jurisdiction;
- National legislation on sanctions should include more efficient means to discourage infringements, such as point systems;
- Rules should be envisaged to allow GFCM Members to take appropriate trade and market-related measures, consistent with international law, to prohibit the import of fishing products coming from States which undermine the effectiveness of conservation measures adopted within the GFCM framework;
- The required assistance should be provided to developing countries of the Mediterranean and Black Sea to establish and carry out their fisheries and aquaculture policies;
- Specific streamlined legislation should be developed for aquaculture, which provides for, *inter alia*, mandatory environmental impact assessment, planning, zoning and a “single window” procedure to simplify licensing requirements;
- Conflicts between fishing and aquaculture activities as well as with other activities should be addressed and solved within the context of integrated coastal zone management;
- GFCM Members should provide the GFCM Secretariat with the updated texts of their national legislation in the field of fisheries and aquaculture, where appropriate translated in one of the GFCM official languages, to be published on the GFCM website. A database of national legislation should be established, possibly into one of the GFCM official languages;
- A comprehensive publication on fisheries legislation should reproduce the information provided. Opportunity will be therefore given to Members to update previous studies undertaken on the subject.

OTHER MATTERS

56. The participants unanimously thanked the authorities of the hosting country (Lebanon) and the FAO Representation in Lebanon for the excellent organization of the meeting.
57. The participants acknowledged and thanked the Italian Government for funding the LaMed Project.
58. The meeting also thanked the Rapporteurs for their excellent work.

ADOPTION OF THE REPORT/RECOMMENDATIONS

59. The meeting formally adopted the report along with its Conclusions and Recommendations on Friday 28th of October 2011.

Agenda

1. Opening, arrangement of the meeting and adoption of the agenda
2. Introduction of the international legal framework relevant to fisheries and applying to the GFCM Agreement Area.
3. Relevant initiatives related to national legal frameworks: the example of aquaculture
4. Presentation of fisheries legal frameworks by national experts
5. General discussion
4. Conclusions and Recommendations
5. Other matters
6. Adoption of the report

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