GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

COMMISSION GÉNÉRALE DES PÊCHES POUR LA MÉDITERRANÉE

SCIENTIFIC ADVISORY COMMITTEE (SAC)

Fourteenth Session

Sofia, Bulgaria, 20-24 February 2012

FISHERIES LEGISLATION OF THE GFCM MEDITERRANEAN AND BLACK SEA MEMBERS

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(Draft GFCM Publication)

ISBN 978-92-5-106605-8

PREPARATION OF THIS DOCUMENT

This paper deals with fisheries laws and regulations adopted by Mediterranean and Black Seas GFCM Members and on developments at the international level relevant in this field. Due to the high number of national provisions and their frequent amendments and additions, the information provided in this paper focuses on the main aspects and the general trends in applicable fisheries regimes.

This paper basically follows, with the necessary changes and updatings, the model of the work carried out by Philippe Cacaud, in *Fisheries Laws and Regulations in the Mediterranean: A Comparative Study*, GFCM Studies and Reviews No. 75, Rome, 2005. This paper is also based on the information provided by national experts through the "Questionnaire on the fisheries legislation in the Mediterranean and the Black Sea".

Table of Contents

ACRONYMS

CCRF	Code of Conduct for Responsible Fisheries
CFP	Common Fisheries Policy
EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GFCM	General Fisheries Commission for the Mediterranean
GT	Gross Tonnage
HP	Horse Power
ICCAT	International Commission for the Conservation of Atlantic Tunas
IUU	Illegal, Unreported and Unregulated fishing
MCS	Monitoring, Control and Surveillance
n.m	nautical miles
RFMOs	Regional Fisheries Management Organizations
TAC	Total Allowable Catch
UNCLOS	United Nations Convention of the Law of the Sea
VMS	Vessel Monitoring System

INTRODUCTION

The rules relating to marine fisheries applicable in the Mediterranean and Black Seas can be found both in the national legislation of the States concerned and in instruments adopted at the international level that are binding on their parties. It is within this complex legal framework that the applicable regime should be understood, giving a particular emphasis to the general duty to cooperate in the management of a resource that is in most cases of interest for more than one State.

The Mediterranean and the Black Seas are semi-enclosed seas under the definition given by Article 122 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), that is "a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States". The UNCLOS calls on States bordering semi-enclosed seas to cooperate, directly or through appropriate regional organizations, in different fields, including the management, conservation, exploration and exploitation of the living resources of the sea (Art. 123).

Within its mandate to promote the development, conservation, rational management and best utilization of living marine resources, the General Fisheries Commission for the Mediterranean (GFCM) has, since its foundation, taken into due consideration the legal issues surrounding the sustainable use of fishery resources. In particular, many GFCM recommendations regard specifically the development and establishment by the States of the appropriate legal framework for defining access to the fisheries resources, implementing conservation and management measures, or monitoring, control and surveillance operations. Several projects were also launched over the last years to compile the fisheries-related legislation with a view to identifying regulatory gaps or weaknesses and areas of potential legal harmonization[1].

[1] See Cacaud, P. *Étude comparative sur la réglementation en matière de pêches maritimes dans les pays de la Méditerranée occidentale participant au projet CopeMed*, FAO 2002. 32 p. (Western Mediterranean Coastal States); Cacaud, P. *Fisheries laws and regulations in the Mediterranean: a comparative study*. Studies and Reviews. General Fisheries Commission for the Mediterranean. No. 75. Rome, FAO. 2005. 40p (Mediterranean Basin); Report of the FAO/GFCM Workshop on Port States measures to combat illegal, unreported and unregulated fishing (Rome, December 2007). For a research sponsored by a national institution, see Osservatorio Nazionale della Pesca, Centro Ricerche Economiche e Sociali (C.R.E.S.), *Monitoraggio della legislazione in materia di pesca nei paesi del Mediterraneo – Analisi comparativa e sviluppo di modelli formativi*, Roma, 2008.

Proceeding in this direction, this comparative study aims to provide fisheries managers and stakeholders with information on the principal measures recently adopted by GFCM Members in the GFCM Agreement Area with respect to three core issues, namely: the access regimes to fisheries resources; the conservation and management measures; and the control, enforcement and sanctions. Emphasis will be first put on the international and regional legal framework applicable to the fisheries.

PART I: THE INTERNATIONAL LEGAL FRAMEWORK

BASIC CONCEPTS

Under customary international law and the UNCLOS, marine spaces are divided into different zones, moving from the coast seaward:

- **The marine internal waters** are waters subject to the sovereignty of the coastal State and located on the landward side of the baseline from which the territorial sea is measured. The baseline corresponds, depending on the geographical characteristics of the coastline, to the low-water line or, in particular cases, to one or more straight segments that connect some determined points located on land or islands in the vicinity of the coast[2].
- **The territorial sea** is a belt of coastal waters, that may not extend beyond 12 nautical miles (n.m.) from the baseline (Art. 3 UNCLOS). It includes also the seabed and its subsoil. It is subject to the sovereignty of the coastal State with the exception of the right of innocent passage for ships flying the flag of third States. The territorial sea does not depend on any express proclamation by the coastal States concerned, but is granted to them as a mere consequence of the sovereignty on land (*ipso iure*).
- **The contiguous zone** is a belt of water adjacent to the territorial sea, the outer limits of which do not exceed 24 n.m. from the baseline of the territorial sea. It is established on the basis of an express proclamation by the coastal State concerned, which may exercise the control necessary to prevent infringements of customs, fiscal, immigration or sanitary laws and regulations applicable within its territory or territorial sea and to punish such infringements (Art. 33 UNCLOS).
- **The Exclusive Economic Zone (EEZ)** is a maritime area adjacent to the territorial sea that may not extend beyond 200 n.m. from the baseline from which the breath of the territorial sea is measured (Art. 57 UNCLOS). The EEZ is established on the basis of an express proclamation by the coastal State concerned, which enjoys "sovereign rights" for the purpose of exploitation of the natural resources, whether living or non-living, and production of energy from the water, currents and winds, as well as "jurisdiction" with regard to artificial islands, installations and structures, marine scientific research and protection and preservation of the marine environment[3]. The other States enjoy the freedoms of navigation, overflight and laying of submarine cables and pipelines, and of other internationally lawful uses of the sea related to these freedoms.
- **The continental shelf** is defined as "the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 n.m from

[2] Under the UNCLOS, straight baselines can be drawn in the cases of deeply indented coastlines or fringes of islands (Art. 7), mouths of rivers (Art. 9), bays (Art. 10) or archipelagic States (Art. 47).
[3] For more details see Art. 56 UNCLOS.

the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance" (Art. 76, para. 1, UNCLOS). In the continental shelf, the coastal State exercises sovereign rights for the purpose of exploring it and exploiting its natural resources (Art. 77, para. 1, UNCLOS), both mineral and living[4]. The continental shelf exists *ipso iure* and does not depend on any express proclamation by the coastal State concerned (Art. 77, para. 3). The rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters (Art. 78, para. 1), that can be subject to the regime of either the EEZ or of the high seas.

- The marine areas located beyond the zones subject to national jurisdiction constitute **the High Seas**, also defined as "all parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State" (Art. 86 UNCLOS). On the high seas jurisdiction over ships is exercised by the State that has granted its flag to them. The high seas is subject to a regime of freedom that encompasses different activities:

> "1. The high seas are open to all States, whether coastal or land-locked. Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law. It comprises, inter alia, both for coastal and land-locked States:
>
> a) freedom of navigation;
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> b) freedom of overflight;
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> c) freedom to lay submarine cables and pipelines, subject to Part VI [= Continental Shelf];
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> d) freedom to construct artificial islands and other installations permitted under international law, subject to Part VI;
>
> e) freedom of fishing, subject to the conditions laid down in section 2 [= Conservation and Management of the Living Resources of the High Seas];
>
> f) freedom of scientific research, subject to Parts VI and XIII [= Marine Scientific Research].
>
> 2. These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas (…)" (Art. 87 UNCLOS).

- **The Area** is the seabed located beyond the limits of the continental shelf. It is subject to the special regime of the common heritage of mankind (Part XI UNCLOS). For geographical reasons, no seabed falling under the Area regime exists in the Mediterranean and the Black Seas. In fact, in these semi-enclosed seas there is no point which is located at a distance of more than 200 n.m. from the nearest land or island.

[4] The living resources of the continental shelf are the so-called sedentary species. See *infra* p. 18.

1. Nature and extent of maritime zones in the Mediterranean and Black Seas

The general rules of international law on the regime and extent of maritime zones within and beyond national jurisdiction apply also in semi-enclosed seas, such as the Mediterranean and the Black seas. Despite a certain number of unsettled maritime boundaries, especially in the Mediterranean Sea, there is no doubt that States bordering enclosed or semi-enclosed seas are entitled to establish EEZ whenever they wish to do so, even though for geographical reasons they cannot claim a full size 200-mile zone[5]. International law does not prevent States bordering seas of limited dimensions from establishing their own EEZ, provided that maritime boundaries are not unilaterally imposed by one State on its adjacent or opposite neighboring States[6].

1.1. The heterogeneous legal status of Mediterranean waters

In the case of the maritime zones established in Mediterranean Sea, which is surrounded by twenty-two coastal States[7], a number of peculiarities must be taken into account that make the present picture particularly complex. Not all the Mediterranean coastal States have so far decided to establish an EEZ. However, some coastal States have proclaimed beyond the territorial sea *sui generis* zones, namely a **fishing zone** or an **ecological protection zone**. While neither of them is mentioned in the UNCLOS, they are not prohibited either. They encompass only some of the rights that can be exercised within the EEZ. Such a fragmentation of rights seems compatible with international law, also on the basis of the general principle that the right to do less is implied in the right to do more (*in maiore stat minus*). The current picture is summarized hereunder, according to the following national coastal zones:

1.1.1. Internal waters

Several Mediterranean States (Albania, Algeria, Croatia, Cyprus, Egypt, France, Italy, Libya, Malta, Morocco, Montenegro, Spain, Tunisia and Turkey) apply legislation measuring the breadth of the territorial sea from straight baselines joining specific points located on the mainland or islands. Historical bays are claimed by Italy (Gulf of Taranto) and Libya (Gulf of Sidra).

1.1.2. Territorial sea

Most Mediterranean States have established a 12-mile territorial sea. The exceptions are the United Kingdom (3 n.m. for Gibraltar[8] and the Sovereign Base Areas of Akrotiri and Dhekelia on the island of Cyprus), Greece (6 n.m.) and Turkey (6 n.m. in the Aegean Sea, but 12 n.m. elsewhere).

1.1.3. Fishing zone

Five States have declared a fishing zone beyond the limit of the territorial sea:

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[5] In fact, EEZ have been established in other semi-enclosed seas, such as the Baltic and the Caribbean.

[6] As remarked by the International Court of Justice in the judgment of 18 December 1951 on the *Fisheries* case, "the delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal State as expressed in its municipal law. Although it is true that the act of delimitation is necessarily a unilateral act, because only the coastal State is competent to undertake it, the validity of the delimitation with regard to other States depends upon international law" (International Court of Justice, *Reports of Judgments, Advisory Opinions and Orders,* 1951, p. 20).

[7] Spain, the United Kingdom (as far as Gibraltar and the sovereign base areas of Akrotiri and Dhekelia are concerned), France, Monaco, Italy, Malta, Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Albania, Greece, Cyprus, Turkey, Syria, Lebanon, Israel, Egypt, Libya, Tunisia, Algeria, Morocco.

[8] A longlasting dispute is pending between Spain and the United Kingdom as to whether Gibraltar is entitled to a territorial sea.

- Tunisia has established along its southern coastline (from Ras Kapoudia to the frontier with Libya) a fishing zone delimited according to the criterion of the 50-meter isobath[9], based on a legislation dating back to 1951 (Decree of the Bey of 26 July 1951) which was subsequently confirmed (Laws No. 63-49 of 30 December 1963 and No. 73-49 of 2 August 1973).

- Malta, in 1978, established a 25-mile exclusive fishing zone (Territorial Waters and Contiguous Zone Amendment Act of 18 July 1978). Under Legislative Act No. X of 26 July 2005, fishing waters may be designated beyond the limits laid down in the 1978 Act and jurisdiction in these waters may also be extended to artificial islands, marine scientific research and the protection and preservation of the marine environment.

- Algeria created, in 1994, a fishing zone whose extent is 32 n.m. from the maritime frontier with Morocco to Ras Ténès and 52 n.m. from Ras Ténès to the maritime frontier with Tunisia (Legislative Decree No. 94-13 of 28 May 1994).

- Spain, in 1997, established a fishing protection zone in the Mediterranean (Royal Decree 1315/1997 of 1 August 1997, modified by Royal Decree 431/2000 of 31 March 2000). The zone is delimited according to the line which is equidistant between Spain and the opposite or adjacent coasts of Algeria, Italy and France[10].

- Libya, in 2005, established a fisheries protection zone whose limits extend seaward for a distance of 62 n.m. from the external limit of the territorial sea (General People's Committee Decision No. 37 of 24 February 2005), according to the geographical co-ordinates set forth in General People's Committee Decision No. 105 of 21 June 2005.

1.1.4. Ecological protection zone

Three States have adopted legislation for the establishment of an ecological protection zone:

- In 2003, France adopted Law No. 2003-346 of 15 April 2003 which provides that an ecological protection zone may be created. In this zone France exercises only some of the powers granted to the coastal State under the EEZ regime, namely the powers relating to the protection and preservation of the marine environment, marine scientific research and the establishment and use of artificial islands, installations and structures. A zone of this kind was established along the French Mediterranean coast by Decree No. 2004-33 of 8 January 2004 which specifies the co-ordinates to define the external limit of the zone. The French zone partially overlaps with the Spanish fishing zone.
- In 2005, Slovenia provided for the establishment of an ecological protection zone (Law of 4 October 2005)[11].
- In 2006, Italy adopted a framework legislation for ecological protection zones (Law No. 61 of 8 February 2006) to be established by decrees. Within the ecological zones, Italy exercises powers which are not limited to the prevention and control of pollution, but extend also to the protection of marine mammals, biodiversity and the

[9] The Tunisian fishing zone encompasses the bank commonly called « the Big Breast » («*le Grand Mamelon* »). This zone is however considered by Italy as a high seas zone of biological protection where fishing by Italian vessels or nationals is prohibited (Decree of 25 September 1979).

[10] No fishing zone was established as regards the Spanish Mediterranean coast facing Morocco.

[11] Croatia has objected to the right of Slovenia to establish national coastal zones beyond the territorial sea. A dispute is pending between the two States and will be decided by arbitration.

archaeological and historical heritage. The first of the implementing enactments is Decree of the President of the Republic of 27 October 2011, No. 209, which establishes an ecological protection zone in the Ligurian and Tyrrhennian Seas.

1.1.5. Zone for fishing and ecological purposes

One Mediterranean State has established a zone for both fishing and ecological purposes:

- On 3 October 2003, the Croatian Parliament adopted a "decision on the extension of the jurisdiction of the Republic of Croatia in the Adriatic Sea" and proclaimed "the content of the exclusive economic zone related to the sovereign rights for the purpose of exploring and exploiting, conserving and managing the living resources beyond the outer limits of the territorial sea, as well as the jurisdiction with regard to marine scientific research and the protection and preservation of the marine environment, whereby the ecological and fisheries protection zone of the Republic of Croatia is established as of today" (Art. 1). However, on 3 June 2004, the Parliament amended the 2003 decision in order to postpone implementation of the ecological and fishing zone with regard to Member States of the European Union.

1.1.6. Exclusive Economic Zone

A number of States have established, or officially announced the establishment of, an EEZ.

- In 1981, Morocco created a 200-mile EEZ (Dahir No. 1-81-179 of 8 April 1981), without making any distinction between the Atlantic and the Mediterranean coasts.
- Upon ratifying the UNCLOS on 26 August 1983, Egypt declared that it "will exercise as from this day the rights attributed to it by the provisions of parts V and VI of the (...) Convention (...) in the exclusive economic zone situated beyond and adjacent to its territorial sea in the Mediterranean Sea and in the Red Sea".
- By Law No. 28 of 19 November 2003 Syria provided for the establishment of an EEZ.
- Cyprus proclaimed an EEZ under the Exclusive Economic Zone Law adopted on 2 April 2004.
- Tunisia established an EEZ under Law No. 2005-60 of 27 June 2005. The modalities for the implementation of the law will be determined by decree.
- Under a declaration of 27 May 2009 and a decision of 31 May 2009, No. 260, Libya proclaimed an EEZ. The external limit of the zone will be determined by agreements with the neighbouring States concerned.
- By a framework Law adopted on 19 September 2011, Lebanon established its EEZ. Three annexes define the limits of the zone between Lebanon and, respectively, Syria, Cyprus and Palestine.

In fact, while the Mediterranean may be considered today as a sea in transition towards a generalized EEZ regime, some high seas areas still exist within this semi-enclosed sea. Such a protean situation must be taken into consideration as far as the regime of fisheries is concerned.

1.2. The legal status of Black Sea waters

As regards the Black Sea, there are no peculiarities to remark, as all the six coastal States[12] have established a 12-mile territorial sea and have proclaimed their EEZ.

2. The international legal instruments applicable to the fisheries management

Several international instruments, having either a world or a regional scope, apply to fisheries.

2.1. The UNCLOS

2.1.1. Internal waters and territorial sea

According to the UNCLOS regime, in the internal waters and in the territorial sea, fisheries are subject to the sovereignty of the coastal State. Vessels flying the flag of third States may be allowed to engage in fishing activities if a treaty to such purpose is concluded between the coastal State and the States concerned.

2.1.2. Exclusive Economic Zone

Within the EEZ, the UNCLOS fisheries management scheme is based on the determination by the coastal State of the allowable catch of the living resources (Art. 61, para. 1) and the subsequent determination of its own capacity to harvest (Art. 62, para. 2). Where the coastal State does not have the capacity to harvest the entire allowable catch, it shall, through agreements and pursuant to the terms and conditions established in its legislation, give other States access to the surplus (Art. 62, para. 2). The other States must comply with the terms and conditions established by the coastal State and relating to a number of matters listed by Article 62, para. 4, such as, *inter alia*, licensing, payment of fees and other forms of remuneration, joint-ventures and other cooperative arrangements, technical measures for the conservation of living resources (quotas of catch, seasons and areas of fishing, sizes and amount of gear, number of fishing vessels, etc.). Under Article 62, para. 3, in giving other States access to its EEZ , the coastal State shall "take into account all relevant factors", including, *inter alia*, the significance of the living resources of the area to its economy and other national interests, the rights of land-locked and geographically disadvantaged States[13] of the same subregion or region, the

[12] Turkey, Bulgaria, Romania, Ukraine, the Russian Federation and Georgia.

[13] Article 70, para. 2, defines the term "geographically disadvantaged States" as meaning "coastal States, including States bordering enclosed or semi-enclosed seas, whose geographical situation makes them dependent upon the exploitation of the living resources of the exclusive economic zones of other States in the subregion or region for adequate supplies of fish for the nutritional purposes of their populations or parts thereof, and coastal States which can claim no exclusive economic zones of their own".

requirements of developing States of the subregion or region in harvesting part of the surplus and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone or which have made substantial efforts in research and identification of stocks.

Specific provisions are included in the UNCLOS for those species that, due to their natural characteristics, do not respect the artificial boundaries that are drawn by men on maps, namely the straddling stocks (Art. 63)[14], highly migratory species (Art. 64)[15], anadromous stocks (Art. 66)[16], or catadromous species (Art. 67)[17].

As regards disputes that may arise over fisheries in the EEZ, the UNCLOS provides that the coastal State is not obliged to accept the submission to compulsory settlement procedures of any disputes relating to its sovereign rights with respect to living resources, including its discretionary powers for determining the allowable catch, its harvesting capacity, the allocation of surpluses to other States, and the terms and conditions established in its conservation and management legislation (Art. 297, para. 3 *a*).

Yet the UNCLOS management scheme is not always feasible. Developing coastal States do not always have an adequate knowledge of the biological characteristics of living resources located in their 200-n.mile EEZ and do not always count on sufficient financial and technological means to determine the allowable catch and to exercise a full control on the amount of foreign catches. In these cases, access to fisheries is often granted by the coastal State in the form of a number of licenses to foreign fishing vessels and in exchange for the payment of adequate fees. With time, the license system could be combined with more advanced arrangements, such as joint venture agreements with foreign fishing corporations where the coastal State directly participates in the benefits and risks of the venture. This could contribute to the achievement of the final aim, consisting of the building by the coastal State of a national capacity to fully exploit the living resources.

In the special case of the Mediterranean, the determination of total allowable catches and quotas is not considered as a viable option by the current regional fisheries management due to multi-species nature of Mediterranean fisheries, except for bluefin tuna under the ICCAT regime.

2.1.3. Continental shelf

[14] That is stocks occurring within the exclusive economic zones of two or more coastal States or both within the exclusive economic zone and in an area of the high seas beyond and adjacent to it.

[15] Annex I to the UNCLOS provides the list of highly migratory species, which includes several species of high commercial value, such as tunas and swordfish.

[16] Anadromous species, such as salmon, originate in rivers, migrate to the sea and return to rivers.

[17] Catadromous species, such as eels, originate in the sea, migrate to rivers or brackish waters and return to the sea.

Under Article 68 UNCLOS, the regime of the EEZ does not apply to sedentary species of the continental shelf. They are defined by Article 77, para. 1, as the living organism of the seabed and subsoil "which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil" (Art. 77, para. 2, UNCLOS). Sedentary species are subject to the sovereign rights of the coastal State, as are the mineral resources of the continental shelf.

2.1.4. High seas

In the case of the high seas, the UNCLOS fisheries regime is based on an obligation to cooperate for the conservation and management of living resources. Articles 117 and 118 provide that all States have the duty to take, or to cooperate with other States in taking, measures of conservation. Article 119 specifies several factors that must be taken into consideration in determining the total allowable catch and establishing other conservation measures, namely, relevant environmental and economic factors, special requirements of developing States, fishing patterns, interdependence of stocks, effects on species associated with, or dependent upon, harvested species, and generally recommended minimum standards. The establishment of subregional or regional fisheries organizations is called for by Article 118.

An obligation to cooperate is not devoid of legal meaning. It implies a duty to act in good faith in pursuing a common objective and in taking into account the requirements of the other interested States. In principle, this kind of behaviour is likely to lead to the conclusion of agreements, as remarked by the International Court of Justice in the judgments of 20 February 1969 on the *North Sea Continental Shelf* cases[18] and of 25 July 1974 on the two *Fisheries Jurisdiction* cases. In the latter the Court stated that

> "it is one of the advances in maritime international law, resulting from the intensification of fishing, that the former *laissez-faire* treatment of the living resources of the sea in the high seas has been replaced by a recognition of a duty to have due regard to the rights of other States and the need of conservation for the benefit of all. Consequently, both Parties have the obligation to keep under review the fishery resources in the disputed waters and to examine together, in the light of scientific and other available information, the measures required for the conservation and development, and equitable exploitation, of those resources"[19].

[18] International Court of Justice, *Reports of Judgments, Advisory Opinions, Orders*, 1969, para. 85 of the judgment.

[19] *Ibidem*, 1974, para. 72 of the judgment between the United Kingdom and Iceland and para. 64 of the judgment between the Federal Republic of Germany and Iceland.

However, a number of crucial questions that are typical of high seas fisheries may be asked as regards some problems that persistently affect high seas fisheries, such as unregulated fishing, vessel reflagging to escape control, insufficiently selective gear, unreliable databases, excessive fleet size and lack of sufficient cooperation between States. To be meaningful, an obligation to co-operate should be complied with by all the States interested in the exploitation of a specific fishery. According to customary international law and to Article 34 of the 1969 Vienna Convention on the Law of Treaties, "a treaty does not create either obligations or rights for a third State without its consent". How is it possible to apply to fishing vessels flying the flag of non-party States (for example, a flag of convenience) a conservation scheme agreed upon by the parties to a multilateral treaty? What are the means for preventing the conservation measures accepted by most interested States from being frustrated by a few countries which enjoy the benefits of such measures without burdening themselves with the corresponding duties? It is well known that where the fishing effort exceeds the rate of natural reproduction of the resources, the yield of the fishery decreases. Conservation measures (such as closed areas, closed seasons, quotas, minimum size of nets, etc.) need often to be adopted to achieve the objective of reaching an intensity of fishing which approaches as closely as possible the optimum sustainable yield from a determined fishery. It cannot be taken for granted that, on the high seas, these kinds of technical measures of restraint are agreed upon by all the interested States.

2.2. Other Instruments

The post-UNCLOS trend in the field of high seas fisheries is based on the adoption of new instruments for the strengthening of cooperation among all the States which are interested in the exploitation of marine living resources. While having a world level, such instruments also aim at encouraging cooperation at the regional level which is entrusted with regional fisheries management organizations.

2.2.1. Binding instruments

The **Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas** (so-called FAO Compliance Agreement) was adopted on 24 November 1993 by the FAO Conference. The preamble of the Agreement recalls that "the failure of flag States to fulfill their responsibility with respect to fishing vessels entitled to fly their flag", as well as "the practice of flagging or reflagging vessels as a means of avoiding compliance with international conservation and management measures for living marine resources", "are among the factors that seriously undermine the

effectiveness of such measures". The parties to the Agreement are under the basic obligation to comply with the principle of flag State responsibility:

> "Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures" (Art. III, para. 1 *a*).

The other main obligations set forth in the Agreement relate to the exercise of flag State responsibility. For example, parties must not authorize any fishing vessel previously registered in the territory of another party that has undermined the effectiveness of conservation and management measures to be used for fishing on the high seas (Art. III, para. 5). Parties are under an obligation to apply such sanctions of sufficient gravity as to be effective in securing compliance with the requirements of the Agreement (Art. III, para. 8)[20]. Other provisions deal with compulsory authorizations for fishing vessels, records of fishing vessels, transmission of information to the FAO for subsequent circulation to all parties.

The Agreement is a sign of a new way to understand the regime of fisheries on the high seas. All States retain their traditional right to sail ships flying their flag on the high seas and to give their flag to vessels fishing on the high seas. But this right is linked to the obligation to exercise flag State responsibility. To allow vessels flying the national flag to undermine the effectiveness of international conservation and management measures is to be considered a breach of an international obligation. This important corollary to the right to fish on the high seas is a welcome addition to the body of international law of the sea.

Another instance of the trend towards strengthening multilateral cooperation in the field of fisheries is the **Agreement for the Implementation of the Provisions of the United Nations Convention of the Law of the Sea of 10 December 1982, Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**, opened for signature in New York on 4 December 1995 (so-called UN Fish Stocks Agreement). To confirm the new way to understand fishing activities on the high seas, the Fish Stocks Agreement includes a detailed provision on the precautionary approach as applied to fisheries. In particular:

[20] The importance of this provision lies in the fact that parties are obliged to establish and apply sanctions also relating to activities which take place on the high seas and not in their own jurisdictional waters.

"States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures" (Art. 6, para. 2)[21].

Today the precautionary approach, which is one of the main elements of the 1992 Rio Declaration on Environment and Development[22], has been included in many legal instruments relating to the protection of the environment or the management of natural resources[23]. It involves, *inter alia*, a reversal of the burden of proof in the case of lack of full scientific certainty.

Several provisions of the Fish Stocks Agreement stress the important role that is played by subregional or regional fisheries management organizations or arrangements. The Fish Stocks Agreement confirms the general principle that coastal States and States fishing on the high seas are under a duty to cooperate to conserve and manage straddling and highly migratory fish stocks (Art. 5). It also contains provisions that derogate from the traditional principle of freedom of fishing on the high seas. On the one hand, all States having a real interest in the fisheries concerned have the right to become members of a subregional or regional fisheries management organization or participants in such an arrangement (Art. 8, para. 3). On the other, only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such an organization or arrangement, have access to the fishery resources to which those measures apply (Art. 8, para. 4). A party may authorize a vessel to use its flag for fishing on the high seas "only where it is able to exercise effectively its responsibilities in respect of such vessel" under the UNCLOS and the Fish Stocks Agreement.

Besides the flag State, enforcement jurisdiction is attributed also to port States and other parties to the Agreement or regional fisheries organizations, which can stop, board and inspect vessels on the high seas. The obligation to ensure enforcement of the measures is primarily vested in the flag State (Art. 19). However, powers are also given to the other parties. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, any State party member of the organization or arrangement may board and inspect vessels flying the

[21] The 1995 UN Fish Stocks Agreement makes the precautionary approach concrete. The basic concept, developed in Article 6, para. 3, and further elaborated in Annex II, is that stock-specific reference points must be determined and not exceeded (para. 4). Precautionary reference points are defined in para. 1 of Annex II.

[22] "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation" (principle 15 of the Rio Declaration).

[23] The view that, in the field of fisheries, States should "act with prudence and caution to ensure that effective conservation measures are taken to prevent serious harm to the stock" (in the specific case, a species of tuna of high commercial value) was expressed by the International Tribunal for the Law of the Sea in the order of 27 August 1999 in the *Southern Bluefin Tuna* cases (para. 77 of the order), although the concept of precautionary approach was not explicitly mentioned in it.

flag of another State party for the purpose of ensuring compliance with conservation and management measures (Art. 21, para. 1). On notification by the inspecting State that there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures, the flag State shall either fulfil its obligation to take enforcement action or authorize the inspecting State to take such enforcement action, as the flag State may specify (Art. 21, para. 7). When, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation and the flag State has either failed to respond, or has failed to take the required action, "the inspectors may remain on board and secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port" (Art. 21, para. 8).

More recent (and not yet in force) is the **Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing** (so-called IUU fishing), adopted on 22 November 2009 within the FAO framework. In the preamble the parties declare themselves "deeply concerned about the continuation of illegal, unreported and unregulated fishing and its detrimental effect upon fish stocks, marine ecosystems and the livelihoods of legitimate fishers, and the increasing need for food security on a global basis". They recognize that "measures to combat illegal, unreported and unregulated fishing should build on the primary responsibility of flag States and use all available jurisdiction in accordance with international law, including port State measures, coastal State measures, market related measures and measures to ensure that nationals do not support or engage in illegal, unreported and unregulated fishing".

The objective of the Agreement is "to prevent, deter and eliminate IUU fishing through the implementation of effective port State measures, and thereby to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems" (Art. 2). According to the Agreement, each party shall require that fishing vessels entering in its ports provide sufficiently in advance the information specified in Annex A. After receiving the relevant information, as well as such other information as it may require to determine whether the vessel requesting entry into its port has engaged in IUU fishing or fishing related activities in support of this kind of fishing, the party decides whether to authorize or deny the entry of the vessel into its ports[24]. A party is bound to deny entrance in its ports if it has sufficient

[24] Denials of entry are communicated not only to the vessel, but also to its flag State and, as appropriate and to the extent possible, the relevant coastal States, regional fisheries management organizations and other international organizations.

proof that a vessel has engaged in IUU fishing or fishing related activities in support of such fishing, in particular if the vessel is already included on a list of vessels having engaged in such fishing or related activities adopted by a regional fisheries management organization in accordance with the rules and procedures of such organization and in conformity with international law. In certain cases listed in Article 11, a party is bound to deny, pursuant to its laws and regulations and consistent with international law, a vessel that has entered one of its ports the use of the port for landing, transhipping, packaging and processing of fish that have not been previously landed and for other port services, including refuelling and resupplying, maintenance and drydocking. Parties are under an obligation to inspect the number of vessels in their ports required to reach an annual level of inspections sufficient to achieve the objective of the Agreement, according to the minimum standards of inspection specified in Annex B. Where, following port State inspection, a flag State Party receives an inspection report indicating that there are clear grounds to believe that a vessel entitled to fly its flag has engaged in IUU fishing or fishing related activities in support of such fishing, it shall immediately and fully investigate the matter and shall, upon sufficient evidence, take enforcement action without delay in accordance with its laws and regulations (Art. 20, para. 4). Special provisions apply to meet the requirements of developing States (Part 6 of the Agreement). Parties are bound to take fair, non-discriminatory and transparent measures consistent with the Agreement and other applicable international law to deter the activities of non-Parties which undermine the effective implementation of the Agreement (Art. 23, para. 2).

2.2.2 Non-binding instruments

Among the many instruments of soft law, particular consideration should be given to the **Code of Conduct for Responsible Fisheries (CCRF),** unanimously adopted on 31 October 1995 by the FAO Conference. It aims at providing "a necessary framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment"[25]. The Code has a voluntary character. But, in some cases, it reflects rules that already belong to customary international law or are given binding effect through specific treaties. The Code also contains ideas which may orientate the progressive development of international law of the sea. This is the case of the general principle of responsible fisheries, which is a way to integrate the idea of sustainable development into the field of fisheries:

[25] FAO, Preface to Code of Conduct for Responsible Fisheries, Rome, 1995, p. vi.

"States and users of living aquatic resources should conserve aquatic ecosystems. The right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources" (Art. 6, para. 1).

Another important soft law instrument is 2001 **FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing**. It provides, *inter alia*, the following definitions:

"3.1. Illegal fishing refers to activities:

3.1.1. conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;

3.1.2. conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

3.1.3. in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

3.2. Unreported fishing refers to fishing activities:

3.2.1. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or

3.2.2. undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

3.3. Unregulated fishing refers to fishing activities:

3.3.1. in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or

3.3.2. in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law".

3. The Regional co-operation for the Mediterranean and the Black Seas

Several legal instruments adopted at the Mediterranean and Black Seas level confirm the trend towards regional co-operation among the States bordering these semi-enclosed seas. As regards the protection of the marine environment the main treaties are the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean

(Barcelona, 1976; amended in 1995) with its seven protocols[26], the Convention on the Protection of the Black Sea against Pollution (Bucharest, 1992) with its three protocols[27], as well as the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (Monaco, 1996; ACCOBAMS). As regards marine scientific research, the Agreement establishing the Mediterranean Science Commission (Madrid, 1919; today the International Commission for the Scientific Exploration of the Mediterranean Sea, CIESM) may be quoted. In the field of fisheries, the two following Commissions deserve particular consideration.

3.1. The General Fisheries Commission for the Mediterranean

The General Fisheries Commission (formerly Council) for the Mediterranean (GFCM) was established in 1949 as an institution under the auspices of the FAO to co-ordinate activities related to fishery management, regulation and research in the Mediterranean and Black Seas and connecting waters. It now has twenty-four members, including one non-regional State (Japan) and the European Union. The area covered by the GFCM Agreement includes both the high seas and marine areas under national sovereignty or jurisdiction. The GFCM has the purpose of promoting the development, conservation, rational management and best utilization of all marine living resources, as well as the sustainable development of aquaculture in the area falling under its competence. Its specific functions and responsibilities (Article III, para. 1) include the formulation and recommendation of measures for the conservation and management of living marine resources. The GFCM is required to apply the precautionary approach, when formulating and recommending conservation and management measures, and to take into account the best scientific evidence available and the need to promote the development and proper utilization of marine living resources (Art. III, para. 2). The GFCM also exercises scientific and consultative functions, in order to keep the state of the resources and the state of the fisheries under review. It is entitled to encourage, recommend, co-ordinate and, as appropriate, undertake research and development activities, including co-operative

[26] Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea (Barcelona, 1976; amended in 1995), Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Valletta, 2002; replacing a previous protocol of 1976); Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (Athens, 1980; amended in 1996), Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (Barcelona, 1995; replacing a previous protocol of 1982), Protocol Concerning Pollution Resulting from Exploration and Exploitation of the Continental Shelf, the Seabed and its Subsoil (Madrid, 1994), Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Izmir, 1996), Protocol on Integrated Coastal Zone Management in the Mediterranean (Madrid, 2008).

[27] Protocol on the Protection of the Marine Environment of the Black Sea from Land-Based Sources and Activities (Bucharest, 1992), Protocol on the Protection of the Black Sea Marine Environment against Pollution by Dumping (Bucharest, 1992), Black Sea Biodiversity and Landscape Conservation Protocol (Sofia, 2002).

projects in the area of fisheries and the protection of living marine resources; to assemble, publish or disseminate information regarding exploitable living marine resources and fisheries based on these resources and to promote programmes for marine and brackish water aquaculture and coastal fisheries enhancement. Within the GFCM, a number of committees has been established, such as the Scientific Advisory Committee (SAC), advised by various sub-committees, the Committee on Aquaculture (CAC) and the Compliance Committee (COC).

By a two-thirds majority the GFCM can adopt binding recommendations on conservation and rational management of the resources, as well as measures for their implementation[28] in order to promote convergence and consistency within the fisheries legislation adopted by the parties. They relate, *inter alia*, to driftnets, closed seasons, fisheries restricted areas, mesh size, management of demersal fisheries, plans of actions, red coral, incidental by-catch of seabirds or turtles, conservation of monk seal, records of vessels, port State control, lists of IUU vessels, logbooks, vessel monitoring systems[29].

3.2. The International Commission for the Conservation of Atlantic Tunas

The International Commission for the Conservation of Atlantic Tunas (ICCAT) was established under the International Convention for the Conservation of Atlantic Tunas (Rio de Janeiro, 1966). ICCAT is competent for fisheries of tuna and tuna-like fishes in the Convention Area, which includes the whole of the Atlantic, as well as the Mediterranean as a connected sea. Its mandate is to manage stocks of tuna and other associated species in these waters. It has the power to adopt resolutions that are binding on its Parties. In the last years ICCAT has established a total allowable catch regime and national quotas for the fishing for bluefin tuna in the East Atlantic and Mediterranean waters, within the framework of a multiannual recovery plan. As regards fishing carried out by non-parties, in 1996 ICCAT, under Recommendation 96-11, asked parties to take appropriate measures to the effect that the import of Atlantic bluefin tuna and its products in any form from two non-Party States be prohibited. It also adopted a general instrument concerning trade measures (Recommendation 06-13), noting that "trade restrictive measures should be implemented only as a last resort, where other measures have proven unsuccessful to prevent, deter and eliminate any act or omission that diminishes the effectiveness of ICCAT conservation and management measures". An informal

[28] Parties are under an obligation to t put them into effect, unless they object within 120 days from the date of notification in accordance with the GFCM Agreement.

[29] For future prospects, see *Report of the Expert Meeting on Fisheries Legislation in the Mediterranean and Black Sea* (Beirut, Lebanon, October 2011) para. 55.

modus vivendi has taken place between GFCM and ICCAT. GFCM endorses ICCAT decisions relating to tuna and tuna quotas. In this way there are no contradictions between the GFCM and the ICCAT action.

4. The European Union Fisheries Regime

A particular role for fisheries in the Black and Mediterranean seas is played by the European Union (EU; previously the European Community), a regional economic integration organization of which twenty-seven States are Members. The EU exercises, *inter alia*, an exclusive competence for fisheries management and conservation within the waters falling under the jurisdiction of its Member States[30] and, beyond such waters, as far as Member States' vessels and nationals are concerned. Treaties relating to fisheries applying to Member States are negotiated and concluded by the EU. The EU also exercises a shared competence with its Member States in the field of environmental protection, including the marine environment[31].

European legal provisions are the foundation on which the nine Black Sea and Mediterranean Sea coastal countries that are EU Member States (Bulgaria, Cyprus, France, Italy, Greece, Malta, Romania, Slovenia and Spain) develop and implement many fishing and environmental measures. EU Member States are required to implement legal instruments adopted by the EU institutions to secure uniform or harmonised application of agreed policies throughout the EU. While regulations are directly applicable in Member States, directives must be transposed into their national legal systems within a defined period of time.

The EU has a policy for fisheries (Common Fisheries Policy) which has been several times revised and updated since its establishment in 1971. The current regime is provided by Council Regulation (EC) No. 2371/2002 of 20 December 2002[32] . It sets forth the objectives of the common fisheries policy, which aims at providing for coherent measures concerning different subject matters, such as conservation, management and exploitation of living aquatic resources, limitation of the environmental impact of fishing, conditions of access to waters and resources, structural policy and the management of the fleet capacity, control and enforcement, aquaculture, common organisation of the markets and international relations.

[30] Within a 12-mile zone, Member States are allowed to adopt conservation and management measures applicable to all fishing vessels, provided that such measures are not discriminatory among EU Member States and that the EU has not adopted mesaures specifically addressing this area. This also aims at preserving traditional fishing activities on which the social and economic development of certain coastal communities is highly dependent.

[31] See, in particular, Directive 2008/56/EC of 17 June 2008, establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive).

[32] The European Commission has presented on 13 July 2011 a Proposal for a new Regulation on the CFP (See COM (2011) 425 final.

EU action against IUU fishing has been strengthened by the adoption of Regulation (EC) No. 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing and Regulation (EC) No. 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy.

Specific provisions for fishing have been adopted in consideration of the biological, social and economic characteristics of the Mediterranean Sea. They are found in Council Regulation (EC) No. 1967/2006 of 21 December 2006 concerning management measures for sustainable exploitation of fishery resources in the Mediterranean Sea[33]. As for the Black Sea, reference can be made to Council Regulation (EU) No. 1256/2010 of 17 December 2010, fixing the fishing opportunities for certain fish stocks applicable in the Black Sea for 2011.

33 A proposal made by the European Commission for a Council Regulation on certain provision for fishing in the GFCM Agreement area, doc. COM(2009) 477 final of 16 September 2009. aims at establishing a permanent legal instrument for the transposition of GFCM recommendations into European Union law.

PART II: THE NATIONAL LEGAL FRAMEWORK IN THE MEDITERRANEAN AND BLACK SEAS

5. Access regimes

Access to fisheries resources is generally controlled by States through an official document conferring on its holder the right to fish, as established under national legislation or fisheries access agreements[34]. The name of this document, be it "licence", "authorization", "permit", "concession" or other, varies depending on national legislation[35]. Regarding commercial fishing activities, access regimes apply to both individual fishers and fishing vessels. Supplementary authorizations may be required for certain specific fishing activities. Also recreational fishing activities occurring within territorial waters are often regulated, given their increasing importance in the region and their potential impact on commercial resources. Sometimes, fishing operations conducted solely for the purpose of scientific investigation are not subject to the fisheries regime, but fall under the legislation covering marine scientific research.

5.1. Commercial fishing

Fisheries legislation traditionally distinguishes access regimes applicable to individual fishers from those applicable to vessels. While the former are required to meet certain personal and professional qualification standards, two separate legal regimes usually apply to the latter, according to whether the vessel is national or foreign. Coastal States in the Mediterranean and the Black Seas require that national vessels be authorized through a licence to fish within waters under their sovereignty or jurisdiction.

5.1.1. Prerequisites to licensing

[34] This document will be hereunder called in general "licence". Licensing of fishers and fishing vessels can be considered also as a measure of control (see *infra*, p.44, para.7.2)

[35] For example, EU Regulation 1224/2009 makes a distinction between a "fishing licence" (that is "an official document conferring on its holder the right, as determined by national rules, to use a certain fishing capacity for the commercial exploitation of living aquatic resources. It contains minimum requirements concerning the identification, technical characteristics and fitting out of a Community fishing vessel") and a "fishing authorisation" (that is an "authorisation issued in respect of a Community fishing vessel in addition to its fishing licence, entitling it to carry out specific fishing activities during a specific period, in a given area or for a given fishery under specific conditions"). A fishing authorisation cannot be issued if the fishing vessel concerned does not have a fishing licence.

Generally, application for a licence in respect of a national vessel is submitted to the competent authorities by the owner or charterer of the vessel. Licencing a vessel is often subject to its prior registration either in the register of national vessels kept by the shipping authority (e.g. Slovenia) or in a separate register or record of fishing vessels maintained by the fisheries authorities designated in the fisheries legislation (e.g Algeria, Malta). The other most commonly licencing requirement relates to the issuance of a certificate of seaworthiness with respect to the safety at sea of the vessel and the qualification of the crew (e.g. Albania, Turkey). Prior inspection of the fishing vessel is generally conducted to ensure that the vessel meets the required technical standards, is adequately equipped and that fishing gears on board comply with technical specifications (e.g. Egypt).

5.1.2. Conditions for licences

Use of fishing licence is generally subject to certain conditions, relating to, *inter alia*, the zones where the vessel is authorized to fish, the type and quantity of gear that can be carried on board and used by the vessel, the targeted species, the engine power of the vessel. Additional conditions may be attached to the licence and may relate to information and statistical data reporting or boarding of observers. Some GFCM Parties require that all catches taken by any fishing vessel, whether national or foreign, which operate in waters under national jurisdiction, be landed in national ports unless authorized to do otherwise (e.g. Algeria, Tunisia). A list of minimal information to be contained in the fishing licence is often specified in national legislation (see, for example, the EU legislation)[36]. As a general rule, the fishing licence must be kept on board at all times and submitted to any authorized officer for inspection.

5.1.3. Fees

The issuance of a commercial fishing licence is often contingent upon the payment of a fee. Criteria to determine the amount of fees to be paid to the licencing authorities vary from one country to another and may relate to the tonnage of the vessel, its horsepower or a combination of several factors such as: engine power and type of gear, method and zone of fishing (e.g. Egypt).

[36] Commission Regulation (EU) No 404/2011 of 8 April 2011, laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009, Annex II.

5.1.4. Transfer

Fishing licences may or may not be transferable. Where allowed, transfer of fishing licences is generally subject to prior authorization by the relevant authority and may be permitted only under certain circumstances (e.g. in Albania, if the vessel to which the licence was issued has ceased to operate and if the vessel to which is to be transferred presents similar technical characteristics).

5.1.5. Suspension or revocation

It is common practice to allow the competent authorities to suspend or revoke any fishing licence, in addition to other sanctions that may be imposed on the convicted person for infringement of fisheries regulations. Suspension of a fishing licence may also be imposed if the vessel for which it has been issued ceases to operate for a certain period of time (e.g. in Spain, where a fishing vessel can be withdrawn from the "*Censo de la Flota Pesquera Operativa*" temporally after two years or definitely after seven years without any fishing activity; in Malta, on the expiry of three years where no catches have been registered, the vessel loses its professional licence and fall into the recreational category). In certain other cases, the licence can be revoked if the domestic company owning the vessel is controlled by foreign interest (e.g. Croatia).

5.1.6. Fishing outside waters under national jurisdiction

International fisheries instruments require coastal States to establish a system of authorization to allow vessels flying the national flag to fish outside waters under national jurisdiction, whether on the high seas or in waters under national jurisdiction of another State. The FAO Compliance Agreement provide, for instance, under Article III, para. 2:

> "(...) no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization".

Under Article 18, para. 2, of the Fish Stocks Agreement:

> "a State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention [that is the UNCLOS] and this Agreement".

In line with these instruments, a majority of GFCM Members have established such a licensing system (e.g. Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, France, Greece, Malta, , Slovenia, Spain, Syria, Turkey).

5.1.7. Foreign vessels

Most coastal States in principle allow, subject to certain conditions, foreign vessels to fish for commercial purposes within waters under national sovereignty or jurisdiction. For example, in the case of vessels flying the flag of a non-Member State and operating in the EU waters, EU Regulation 2371/2002 provides that their activities are subject to a fishing licence supplemented by a special fishing permit in the framework of a fisheries agreement concluded between the EU and the flag State. A few States (e.g. Egypt, Tunisia, Turkey) forbid foreign vessels to fish in waters under national sovereignty or jurisdiction, except for scientific research purposes. The particular regime of equal access applies to EU Member States fishing vessels in the waters falling under the jurisdiction of another Member State. However, this regime does not cover the territorial sea, where Member States are authorized until 31 December 2012 to restrict fishing to vessels that traditionally fish in their territorial waters from ports on the adjacent coast (without prejudice to the arrangements for fishing vessels flying the flag of other Member States under existing neighbourhood relations or arrangements between Member States)[37].

5.1.8. Specific fishing activities

Some specific activities may require additional authorization to be carried out, during a certain period or in a given area. These activities may include, for example, trawl fishing or longline fishing for highly migratory pelagic stocks (e.g. France), fishing from the shore (e.g. Algeria, Morocco, Syria), collecting shellfish on the shoreline (e.g. Algeria, Spain, Tunisia), underwater fishing (e.g. Tunisia and Syria for the exploitation of sponges), fishing for scientific or research purposes (e.g. Slovenia). Authorization in the form of concession or leasing agreement may also be required for the exploitation of fixed gears (e.g. Italy, Morocco).

[37] See EU Regulation 2371/2002, Art. 17.2.

5.2. Recreational fishing

Recreational fishing entails all fishing activities, including sport fishing activities, undertaken by any individual, with or without a boat, for leisure purposes and which do not involve the selling of fish or other aquatic organisms. They should be carried out in a manner that does not significantly interfere with commercial fishing and is compatible with sustainable exploitation of marine living resources. Most coastal States, aware of the potential impact on the fisheries sector, regulate recreational fishing activities within their waters. Three types of access regimes are usually established depending on the recreational fishing activity carried out: individual recreational fishers, recreational boats and divers.

As a general rule, restrictions applicable to commercial fishing in relation to minimum landing sizes, prohibited species, prohibited fishing areas and closed seasons also apply to recreational fishing. Most States restrict the type and amount of gears that can be used by each individual recreational fisher or that can be carried on board each recreational boat. For example, EU Regulation 1967/2006 prohibits the use of towed nets, surrounding nets, purse seines, boat dredges, mechanised dredges, gillnets, trammel nets and combined bottom-set nets for leisure fisheries, as well as the use of longlines for highly migratory species. Daily bag limits with respect to certain species or globally could also be put in place (e.g. Turkey adopted a global daily bag limit of 5kg).

6. Conservation and management measures

According to Article 7.1.8 of the CCRF, "States should take measures to prevent or eliminate excess fishing capacity and should ensure that levels of fishing effort are commensurate with the sustainable use of fishery resources as a means of ensuring the effectiveness of conservation and management measures". The fact remains that the concerns about the condition of marine living resources are today growing, as repeatedly stated by the United Nations General Assembly in the annual resolutions on sustainable fisheries. For instance, in the preamble of the resolution adopted in 2011, the General Assembly deplores

> "the fact that fish stocks, including straddling fish stocks and highly migratory fish stocks, in many parts of the world are overfished or subject to sparsely regulated and heavy fishing efforts, as a result, of, inter alia, illegal, unreported and unregulated fishing, inadequate flag State control and enforcement, including monitoring, control and surveillance measures, inadequate regulatory measures, harmful fisheries subsidies and overcapacity, as well as inadequate port State control, as highlighted in the report of the Food and Agriculture Organization of the United Nations, The State of the World Fisheries and Aquaculture 2010".

The conservation and management measures that have been frequently adopted in the Mediterranean and the Black Seas are related to the fishing capacity, the fishing effort, the protected areas (so-called area-based management tools) and species.

6.1. Fishing capacity

According to FAO Technical Guidelines for Responsible Fisheries[38], the fishing capacity encompasses the quantity of fish that can be taken by a fishing unit, for example an individual, community, vessel or fleet, assuming that there is no limitation on the yield from the stock. It is usually expressed in terms of some measure of vessel size, such as gross tonnage, hold capacity, horsepower, and reflects potential rather than nominal fishing effort. Fishing capacity can also be measured according to the types of gears used, in particular whether they are attached to the vessel (e,g. trawls, with fishing capacity calculated in terms of trawling speed and the opening of the net at the water's surface; longlines, the capacity of which can be quantified on the basis of the number of hooks or the length of the line; purse seines, where capacity depends on the total length of the net, the depth of which is specific to the targeted species) or not (e.g. pots, the capacity of which can be measured on the basis of number and size; gillnets and trammel nets, the capacity of which is directly related to their size). According to EU Regulation 2371/2002, the fishing capacity means a vessels' tonnage in GT and its power in kW, unless other criteria are used, such as the amount or the size of the vessel's fishing gear.

The excess capacity of fishing fleets is recognized as a major reason for overfishing and the degradation of marine fisheries resources throughout the world. Growing concerns about the issues of excess fishing capacity led FAO to address these issues through the development of an International Plan of Action (IPOA) for the management of fishing capacity within the framework of the CCRF[39]. The immediate objective of this IPOA is for States and Regional Fisheries Management Organizations (RFMOs) to achieve and efficient, equitable and transparent management of fishing capacity. Towards this end, states are encouraged to assess and monitor fishing capacity of their fleets and prepare and implement national plans of action.

According to the EU CFP, the fleet of Member States should be reduced to bring it into line with available resources. Specific measures are set up in order to attain this objective,

[38] See FAO Technical Guidelines for Responsible Fisheries. No. 4. Rome, FAO. 1997, p. 71.
[39] See FAO-International Plan of Action for the management of fishing capacity. Rome, FAO. 1999, p.19-26.

including the fixing of reference levels for fishing capacity which may not be exceeded, as well as the establishment of a special facility to promote scrapping of fishing vessels and national entry/exit schemes[40]. Member States are required to put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities.

A number of GFCM States have adopted a national "management plan" relating to certain fishing activities carried out in their waters. Such a measure has been taken also in compliance with EU legislation which provides for the adoption of recovery41 or management plans42. Regulation 1967/2006 binds Mediterranean EU Member States to adopt management plans for fisheries conducted by trawl nets, boat seines, shore seines, surrounding nets and dredges within their territorial waters (e.g. in Greece these provisions concern purse seine while another management plan has been designed for bottom trawling fishery; in France, the relate for the Mediterranean to the following gears: trawl, "gangui", dredge, seine and beach seine; in Spain, to bottom trawl, purse seine, longliners and "Artes Menores", which includes fixed gillnets and entangling nets, bottom-set longlines, hook riggings and traps). The measures to be included in the plans must be proportionate to the objectives, the targets and the expected time frame and have regard to the conservation status and the biological characteristics of the stocks, the characteristics of the fisheries in which the stocks are caught and the economic impact of the measures on the fisheries concerned. Under GFCM Recommendation 33/2010/2, the levels of overall fishing capacities are based on a Regional Plan of Action, considering the national and regional fishing capacity management plans. Measures having a corresponding purpose have been adopted within the GFCM framework under Recommendation 34/2010/2 on the management of fishing capacity. It provides, inter alia, that the overall level of fishing capacity shall not be exceeded when vessels are replaced. The establishment of an authorization scheme prior to the construction, importation, modification or transformation of fishing vessels or vessels exceeding a prescribed tonnage is one of the most common measures adopted by GFCM Members for controlling and monitoring fishing capacity (e.g. Algeria, France, Tunisia).

[40] Under entry/exit schemes, the entry of new capacity into the fleet must be compensated by the previous withdrawal of the same or a bigger amount of capacity.

[41] Under Regulation 2371/2002, recovery plans are adopted for fisheries exploiting stocks which are outside safe biological limits. The plans include conservation reference points such as targets against which the recovery of the stocks within safe biological limits shall be assessed. The plans are multi-annual and indicate the expected time frame for reaching the targets established.

[42] Under Regulation 2371/2002, management plans are adopted as far as necessary to maintain stocks within safe biological limits. The plans include conservation reference points such as targets against which the maintenance of the stocks within such limits shall be assessed. The plans are multi-annual and indicate the expected time frame for reaching the targets established.

6.2. Fishing effort

According to the FAO Technical Guidelines[43], the vessel fishing effort can be defined as the amount of fishing gear of a specific type used on the fishing grounds over a given unit of time for example hours trawled per day, number of hooks set per day or number of hauls of a beach seine per day. When two or more kinds of gear are used, the respective efforts must be adjusted to some standard type before being added. According to EU Regulation 2371/2002, the fishing effort is "the product of the capacity and the activity of a fishing vessel; for a group of vessels it is the sum of the fishing effort of all vessels in the group".
It is evident that, by increasing the fishing effort, the catch is also increased. But this occurs only up to the limit of the maximum yield of a given stock. Any fishing effort beyond that limit will result in a decrease of the catch. Therefore and according to Article 6.3. of the CCRF:

> "States should prevent over fishing and excess fishing capacity and should implement management measures to ensure that fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization. States should take measures to rehabilitate populations as far as possible and when appropriate".

The main measures adopted by GFCM Members in order to manage the level of fishing effort in the waters under their sovereignty or jurisdiction correspond to what is also done for this purpose in other seas of the world. A tentative list includes a large number of entries, such as measures for limiting catches, establishing targets for the sustainable exploitation of stocks, fixing the number and type of vessels authorized to fish, establishing incentives to promote more selective or low impact fishing, conducting pilot projects on alternative types of fishing. Other measures (so-called technical measures) relate to the structure, number or size of gear, their method of use, the zones or periods in which activities are prohibited or restricted for the protection of spawning and nursery areas, the minimum size of individuals. Other measures again are adopted to reduce the impact of fishing activities on marine ecosystems or non target species. Emergency measures could also be provided. On some of the measures in question more elaboration is provided hereunder.

[43] See *supra* note 38.

6.2.1. Restrictions on the number of licenses

Restrictions on the number of licence to be issued may apply throughout all national waters or with respect to a specified area or fishing zone, for a species or a group of species, for a specified gear or method or a combination of them. Some GFCM Members (e.g. Egypt, Greece, Tunisia, Turkey) also impose from time to time a freeze on the granting of any new commercial fishing licenses.

6.2.2. TAC or Quotas

In most cases, given the multi-species typical nature of the Mediterranean fisheries, management of fish stocks through a total allowable catch (TAC) or quotas system does not seem a viable option. However, in the Black Sea total allowable catches and quotas for the fishing of turbot and sprat have been established under EU regulations for vessels flying the flag of Member States[44]. Besides, a regional quota management system for bluefin tuna is being implemented in Mediterranean pursuant to the rules of ICCAT[45].

6.2.3. Days-at-sea programmes

Some GFCM Members have taken measures designed to limit the time of operation by duly authorized fishing vessels through the implementation of days-at-sea programmes (e.g. in France for the "gangui'' fisheries).

6.3. Area-based management tools

Area-based management tools (ABMTs) are rather flexible instruments that can generally be understood as areas of marine waters or seabed that are delimited within precise boundaries (including, if appropriate, buffer zones) and that are granted a special regime because of their significance for a number of reasons (ecological, biological, scientific, cultural, educational, recreational, etc.)[46]. The measures applying in ABMTs can be limited to those which are necessary to ensure the prescribed objectives, without unnecessarily burdening

[44] See, lastly, Regulation 5/2012 of 19 December 2011 fixing for 2012 the fishing opportunities for certain fish stocks applicable in the Black Sea.
[45] See *supra*, para. 4.2.
[46] This broad notion of ABMT does not substantially depart from the definition of "protected area" given by Article 2 of the 1992 Convention on Biological Diversity ("a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives") and from the definition of "marine and coastal protected areas" that has been proposed by the Ad Hoc Technical Group on Marine and Coastal Protected Areas, established within the framework of the same convention: "'Marine and coastal protected areas' means any defined area within or adjacent to the marine environment, together with its overlying waters and associated flora, fauna and historical and cultural features, which has been reserved by legislation or other effective means, including custom, with the effect that its marine and/or coastal biodiversity enjoys a higher level of protection than its surroundings".

maritime activities that are not related to these objectives. Among the different kinds of ABMTs, also areas established for the purpose of the sustainable use of natural ecosystems and resources (commonly called fishing zones) can be included. The establishment of ABMTs is linked to the most advanced concepts of environmental policy, such as sustainable development, precautionary approach, integrated coastal zone management, marine spatial planning, ecosystem approach and transboundary cooperation.

A number of policy instruments call for action towards the establishment of ABMTs, in the form of marine protected areas, fishing zones or others[47]. An in-depth discussion on area-based management tools, in particular marine protected areas, took place during the 2010 session of the Ad Hoc Open-Ended Informal Working Group to Study Issues Relating to Conservation and Sustainable Use of Marine Biological Diversity beyond Areas of National Jurisdiction, established by the United Nations General Assembly[48]. The Working Group recommended to the United Nations General Assembly to recognize the work of competent international organizations related to the use of area-based management tools and the importance of establishing MPAs, as well as to call upon States to work through such organizations towards the development of a common methodology for the identification and selection of marine areas that may benefit from protection[49].

For instance, in 2008 FAO developed the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas in order to assist States and RMFOs in sustainably managing fisheries that occur in areas beyond national jurisdiction[50]. The Guidelines also include standards and criteria for identifying vulnerable marine ecosystems in areas beyond national jurisdiction and identify the potential impacts of fishing activities on such ecosystems, in order to facilitate the adoption and the implementation of conservation and management measures by RMFOs and flag States. According to the Guidelines, States and

[47] The close link between protection of the marine environment and sustainable management of marine living resources is confirmed by decision X/31 (protected areas), adopted in 2010 by the Conference of the Parties to the Convention on Biological Diversity, that encourages Parties to establish marine protected areas for conservation and management of biodiversity as the main objective and, when in accordance with management objectives of protected areas, as fisheries management tools.

[48] Several delegations noted the fundamental role of area-based management tools, including marine protected areas, in the conservation and sustainable use of marine biodiversity and in ensuring the resilience of marine ecosystems. Others "emphasized the need for flexibility in the selection of area-based management tools, and the need to avoid a 'one-size-fits-all' approach, recognizing regional and local characteristics. In this regard, some delegations noted that the designation of marine protected areas did not require closing those areas to all activities, or particular activities, but rather managing those areas to ensure that ecological values were maintained. A suggestion was made that fisheries management measures, such as the protection of spawning stocks and the establishment of catch or fishing limits for specific areas could be considered a form of marine protected area" (U.N. doc. A/65/8 of 17 March 2010, para. 66).

[49] *Ibidem*, paras. 17 and 18.

[50] The Guidelines have been developed "for fisheries that occur in areas beyond national jurisdiction and have the following characteristics: i. the total catch (everything brought up by the gear) includes species that can only sustain low exploitation rates; and ii. the fishing gear is likely to contact the seafloor during the normal course of fishing operations" (para. 8).

RFMOs should, based on the results of assessments, adopt conservation and management measures to achieve long-term conservation and sustainable use of deep-sea fish stocks, ensure adequate protection and prevent significant adverse impacts on vulnerable marine ecosystems (para. 70)[51]. Such measures include, *inter alia*, temporal and spatial restrictions or closures (para. 71).

Yet in some regional frameworks, the process for the identification on the basis of appropriate criteria of networks of marine areas is in a quite advanced stage. The fluid nature of the marine environment makes it particularly important to integrate ABMTs within a comprehensive long-term approach to planning and management of activities and within integrated networks that can be envisaged either at the domestic or at international level or, if appropriate, at both. This is especially useful for migratory species and for straddling stocks found in waters subject to the jurisdiction of more neighbouring countries.

In the Mediterranean Sea, the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (Barcelona, 1995) provides for the establishment of a List of Specially Protected Areas of Mediterranean Importance (SPAMI List)[52]. The SPAMI List may include sites which "are of importance for conserving the components of biological diversity in the Mediterranean; contain ecosystems specific to the Mediterranean area or the habitats of endangered species; are of special interest at the scientific, aesthetic, cultural or educational levels" (Art. 8, para. 2)[53]. The existence of the SPAMI List does not exclude the right of each Party to create and manage protected areas which are not intended to be listed as SPAMIs, but deserve to be protected under its domestic legislation.

As regards ABMTs established for the specific purpose of regulating fishing activities, particularly notable are the GFCM measures on the establishment of fisheries restricted areas in order to protect the deep sea sensitive habitats, namely Recommendation 30/2006/3, which prohibits fishing with towed dredges and bottom trawl nets within "Lophelia reef off Capo Santa Maria di Leuca", "The Nile delta area cold hydrocarbon seeps" and "The Eratosthenes

[51] "When determining the scale and significance of an impact, the following six factors should be considered: i. the intensity or severity of the impact at the specific site being affected; ii. the spatial extent of the impact relative to the availability of the habitat type affected; iii. The sensitivity/vulnerability of the ecosystem to the impact; iv. the ability of an ecosystem to recover from harm, and the rate of such recovery; v. the extent to which ecosystem functions may be altered by the impact; and vi. the timing and duration of the impact relative to the period in which a species needs the habitat during one or more of its life-history stages" (para. 18).

[52] The idea of a "list of landscapes and habitats of Black Sea importance" has been retained in Article 4, para. 5, of the Black Sea Biodiversity and Landscape Protection Protocol.

[53] Also to ensure a more representative network of SPAMIs, the Parties to the Convention reaffirmed in the Declaration adopted on 4 November 2009 in Marrakesh "the necessity, at the Mediterranean level, of pursuing efforts to identify varied methods and tools for the conservation and management of ecosystems, including the establishment of marine protected areas and the creation of networks representing such areas in accordance with the relevant objectives for 2012 of the World Summit on Sustainable Development (…)".

Seamount", and Recommendation 33/2009/1 on the fisheries restricted area in the Gulf of Lions.

At the European Union level, under Directive 2008/56/EC of 17 June 2008, establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive), the creation of marine protected areas is an important contribution to the achievement of good environmental status. Article 13, para. 4, provides that programmes of measures established pursuant to the directive "shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas". The Mediterranean Sea and the Black Sea are among the four marine regions identified by Article 4, para. 1, of the Directive. Under Regulation 1967/2006, a "fishing protected area" means "a geographically-defined sea area in which all or certain fishing activities are temporarily or permanently banned or restricted in order to improve the exploitation and conservation of living aquatic resources or the protection of marine ecosystems".

A general view of legislation on ABMTs in Mediterranean countries reveals that there is considerable variety and unbalanced distribution. The national legislation of certain countries contains detailed provisions specifically drafted in order to grant protection to marine areas for a broad range of reasons. In other cases, marine protected areas may be created as appendices to special areas established on land or as a consequence of legislation enacted for a specific purpose, such as fisheries. Sometimes a framework legislation on marine protected areas has be implemented through the actual institution of specific areas. For instance, the Italian legislation provides for different types of marine protected areas. Law No. 394 of 6 December 1991 (Framework Law on Protected Areas), sets forth the general category of protected natural areas (*aree naturali protette*), which *inter alia* include State parks (*parchi nazionali*), and natural reserves (*riserve naturali*). Both State parks and nature reserves can be composed of marine areas. Marine specially protected areas are also regulated by Law No. 979 of 31 December 1982 (Provisions for the Defence of the Sea) which envisages the category of marine reserves (*riserve marine)*. Other kinds of marine specially protected areas are envisaged by Decree No. 1639 of 2 October 1968, implementing the Italian framework law on fisheries. The decree provides for the creation of zones of biological protection (*zone di protezione biologica*), where fishing activities may be prohibited or restricted. These zones are established by the Minister for food policies in marine areas which, on the basis of scientific or technical studies, are recognized as areas of reproduction or restocking of marine species of economic importance or are affected by overfishing.

6.4. Fishing gear and methods

It is common practice to prevent fishers from using particularly destructive gear and methods. Explosive, chemical, poisonous, toxic or soporific substances or electrical devices for fishing purposes are universally prohibited. Some States also provide a list of authorized gear (e.g. Algeria) or subject the use of some gear to a special authorization (e.g. for the small scale fisheries in France also called "*pêche aux petits métiers*", whether on the coast or offshore). Measures can be also designed to prohibit or restrict fishing methods, particularly in the case of special kinds of fisheries. For example, EU Regulation 1967/2006 prohibits the use for fishing or the keeping on board of towed devices for harvesting red coral, as well as of pneumatic hammers or other percussive instruments for the collection of bivalve molluscs digging within the rocks. It also prohibits spear-guns if used in conjunction with underwater breathing apparatus (aqualung) or at night from sunset to dawn. Frequent are also the measures related to the size, type or number of nets (towed nets, surrounding nets or gillnets)[54] or to the size of hooks on longlines. Restrictions based on distance from the coast and depth of waters can also be provided (e.g. a prohibition to use towed gears within 3 n.m. or the 50 m isobath where that depth is reached at a shorter distance from the coast). In this respect, under GFCM Recommendation 35/2011/2, GFCM Members are bound to prohibit the use of remotely operated underwater vehicle as well as any kind of towed gear to exploit red coral which can be harvested only by hammer used by a scuba diver. By way of derogation, specific fisheries authorizations for observation and prospection purposes may be granted under national jurisdiction, provided that the conditions listed in the Recommendation are met. According to GFCM Recommendation 33/2009/2, GFCM Members are required to adopt a minimum 40 mm square mesh codend or a diamond mesh size of at least 50 mm for all trawling activities exploiting demersal stocks.

Almost all States require that fishing vessels in transit through waters where they are not authorized to operate keep fishing gear lashed and stowed in accordance to certain conditions, so that it may not readily be used.

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[54] It is important, to avoid easy violations, that the prohibition is not limited to deploy at sea the nets in question, but includes also the carrying on board of them.

6.5. Species-based measures

In coastal States' legislation special provisions are frequently included to address the characteristics of some living resources which require additional restrictions For certain protected species, fishing may be temporally or totally banned (e.g. establishment of a closed season for the swordfish in Algeria, prohibition to fish red coral until 2015 in Morocco). For instance, under EU Regulation 1967/2006, the deliberate catching, retention on board, transshipment or landing of marine species referred to in Annex IV (Animal and plant species of Community interest in need of strict protection) to Directive 92/43/EEC (Directive of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora; so-called Habitat Directive) is prohibited55. The catching of date shell (Lithophaga lithophaga), common piddock (Pholas dactylus), berried female crawfish (Palinuridae spp.) and berried female lobster (Homarus gammarus) is also prohibited. Special provisions may also be related to some habitats, such as coralligenous habitats56, seagrass beds57, mäerl beds58 or, more generally, to the seabed beyond a certain depts. Under GFCM Recommendation 29/2005/1 and EU Regulation 1967/2006, the use of towed dredges and trawl nets fisheries at depths beyond 1 000 m is prohibited (Art. 4, para. 3).

6.5.1. Minimum sizes

Minimum sizes for species of fish and other aquatic organisms are often set to prevent the capture of juvenile fish and allow sufficient time for fish to mature and thus reproduce. Criteria on how to measure the size of different marine organisms (fish, lobsters, crawfish, molluscs) are often specified in fisheries legislation. This kind of measures is actually adopted by all GFCM States, in a quite detailed manner. In this connection, under GFCM Recommendation 27/2002/1, the GFCM Members are encouraged to take measures aimed at

[55] For example, Annex IV includes all species of cetaceans.

[56] EU Regulation 1967/2006 defines "coralligenous habitat" as "an area where the seabed is characterized by the dominant presence of a specific biological community named 'coralligenous', or where such community has existed and is in need of restoration action. Coralligenous is a collective term for a very complex biogenic structure given by the continuous overlapping over a pre-existent rocky or hard substratum of calcareous strata mainly deriving from the building activity of encrusting calcareous coralline red algae and animal organisms as Porifera, Ascidians, Cnidarians (horny corals, seafans, etc.), Bryozoans, Serpulids, Annelids, together with other limestone-fixers organisms" (Art. 2, para. 12).

[57] EU Regulation 1967/2006 defines "seagrass beds" as "an area where the seabed is characterized by the dominant presence of phanerogams, or where such vegetation has existed and is in need of restoration action. Seagrass is a collective terms for the species *Posidonia oceanica*, *Cymodocea nodosa*, *Zoostera marina* and *Zoostera noltii*" (Art. 1, para. 11).

[58] EU Regulation 1967/2006 defines "mäerl bed" as "an area where the seabed is characterized by the dominant presence of a specific biological community named 'mäerl', or where such community has existed and is in need of restoration action. Mäerl is a collective term for a biogenic structure due to several species of coralline red algae (*Corallinaceae*), which have hard calcium skeletons and grow as unattached free living branched, twig-like or nodule corallines algae on the seabed, forming accumulations within the ripples of mudflats or sandflats seabed. Maerl beds are usually composed of one or a variable combination of red algae, in particular, *Lithothamnion coralloides* and *Phymatolithon calcareum*" (Art. 1, para. 13).

minimizing the capture of small pelagic below the size needed to maintain recruitment stock at a level compatible with sustainable exploitation.

6.5.2. By-catch

A general regulation of by-catch, which includes any taking of non-targeted species, is a complex issue in the context of the wide diversity of species typical of the Mediterranean. Some provisions addressing this issue are found in the fisheries legislation of the Mediterranean States. Generally, professional fishers are allowed to land a certain percentage of by-catch as set by the competent authorities (e.g. Tunisia, Turkey).

At the world level, a set of International Guidelines on by-catch management and reduction of discards has been adopted in 2011 by FAO Committee on Fisheries (COFI). They aim at providing guidance on measures that contribute towards more effective management of by-catch and to reducing discards, at minimizing the capture of species, sizes or sexes that are not going to be used rationally and at minimizing the mortality of organisms that are captured by fishing gear but are not used as well as improving the reporting and accounting of all the components of the total catch.

6.5.3 Protected species

Special protection has been granted under the national legislation of all GFCM Members to marine organisms that are endangered or threatened, such as marine mammals (whales, dolphins, seals), turtles or sea-birds. For example, to avoid catches of some protected species, the legislation of several GFCM Members prohibits or limits the use of driftnets[59] (e.g. Greece, Morocco, Spain, Tunisia). In other cases, the catch of protected species is either strictly prohibited or subject to prior authorization and limited to certain particular purposes (e.g. scientific research). If the protected species are incidentally caught by fishing vessels, they must be immediately released or their catches must be reported to the relevant authorities for scientific purposes (e.g. in France, for any incidental catch of cetacean or pinniped). In this regard, Recommendation GFCM/35/2011/5 prohibits fishing vessels to take on board, tranship and land Mediterranean monk seals (*Monachus monachus*). Specimens accidentally taken in fishing gear must be released unharmed and alive. The obligation to strongly mitigate or eliminate the risk of incidental taking applies to sea-turtles under Recommendation GFCM/35/2011/4. Fishing vessels using purse seines for small pelagic or using surrounding

[59] See GFCM Recommendation 22/1997/1, according to which no vessel flying the flag of GFCM Member may keep on board or use one or more driftnets whose individual or total length is more than 2.5 km.

nets without purse line for pelagic are required not to encircle sea-turtles. Fishing vessels using longlines and bottom-set nets must carry on board safe handling, disentanglement and release equipment. Under GFCM Recommendation 35/2011/3 GFCM Members must keep to the lowest level the incidental taking of sea-birds in fishing activities. The Scientific Advisory Committee is requested to advice on a number of technical measures for the mitigation of by-catches, such as the setting of longlines at night, the use of bird-scaring lines and wrap scares, the setting of a minimum distance between bottom-set nets and sea-birds breeding areas.

7. Control, enforcement and sanctions

Under Article 7.7.3 of the CCRF, "States, in conformity with their national laws, should implement effective fisheries monitoring, control, surveillance and law enforcement measures including, where appropriate, observer programmes, inspection schemes and vessel monitoring systems". Under the FAO IPOA-IUU, adopted by COFI in March 2001, States are required to develop and implement national plans of action to fight against IUU fishing activities. International cooperation has also been envisaged in particular at the regional level[60] to coordinate appropriate actions.

As it is clearly evidenced by the adoption of the FAO Compliance Agreement, the UN Fish Stocks Agreement and the Agreement on Port States Measures[61], a growing concern is to ensure the compliance with measures adopted at both the international and national level to regulate fishing activities, especially those which take place on the high seas. There is an urgent need to develop a culture of compliance among all operators in fishing activities. The concept of flag states responsibilities has been elaborated to emphasize the special duties of flag states to ensure an adequate control on fishing vessels, to enforce the established measures and to sanction with penalties of sufficient gravity those who do not comply with the rules. Among the most frequently illegal practices the following can be listed: encroachment by foreign fishing vessels into national waters, fishing of unauthorized or undersized species, use of prohibited gears and fishing methods, unauthorized fishing in closed areas or during closed seasons, fishing of endangered species, unreporting or misreporting of catches or discards of catches at sea, fishing by unregistered or unlicensed vessels, unreported transshipment at sea and use of unseaworthy vessels[62].

[60] See Report of FAO Regional Workshop on the elaboration of national plans of action to prevent, deter and eliminate illegal, unreported and unregulated fishing-certain countries of the near East region (Egypt, December 2005).
[61] See *supra*, para. 3.2.
[62] Violations of labour law provisions applicable to fishermen are not considered in this study.

A number of control measures have already been established under national legislation or regional cooperation, such as mandatory reportings by fishing vessels, keeping of logbooks to record catches and other activities, including landings and transhipments, inspections at sea or in ports, marking of fishing vessels and gears, observer programmes. A particular attention deserve more recent control technologies, such as vessel monitoring systems (VMS)[63], and, in general, automatic identification systems[64], as they allow systematic and automated cross-checks and facilitate administrative procedures and global assessment of all relevant information. Other kinds of traceability tools, such as genetic analysis, are also envisaged and discussed for future use. Some elaboration on the most frequently adopted measures of control and enforcement is hereunder given.

7.1. Registers of fishers

Registers of fishers are often maintained at central and/or local level. Professional fishers are generally required to demonstrate that they meet minimum qualification standards to ensure that they are sufficiently knowledgeable and skilled to undertake commercial fishing (e.g. Algeria, Italy, Spain). In some GFCM Members, registration may be suspended or terminated for breach of law (e.g. Albania, Slovenia, Italy). Information to be entered in the register of professional fishers must usually include any reported violation of fisheries legislation together with the penalties that were imposed.

7.2. Records or registers of fishing vessels

According to Article 8.2.1 of the CCRF, "flag States should maintain records of fishing vessels entitled to fly their flag and authorized to be used for fishing and should indicate in such records details of the vessels, their ownership and authorization to fish". Specific provisions requiring the establishment of a register or record of fishing vessels are found in a number of fisheries legislation of GFCM Members. In certain countries, at the moment of registration, a distinction is made between large and small fishing vessels or between commercial and small scale fishing activities (e.g. Croatia).

EU Member States are required to keep a register of national fishing vessels. Information contained in national registers is transmitted to the EU Commission to be included in the EU

[63] In EU Regulation 1224/2009, a "vessel detection system" is defined as "a satellite based remote sensing technology which can identify vessels and detect their positions at sea".

[64] In EU Regulation 1224/2009, an "automatic identification system" is defined as "an autonomous and continuous vessel identification and monitoring system which provides means for ships to electronically exchange with other nearby ships and authorities ashore ship data including identification, position, course and speed".

fishing fleet register. Under GFCM Recommendation/34/2009/6, GFCM Members are required to submit electronically to the GFCM Executive Secretary information on their vessels that are authorized to operate in the GFCM area, including a number of data as specified in the Recommendation (such as previous details of deletion from other registries, if any).

7.3. Marking

Marking of fishing vessels and fishing gear enables authorities responsible for controlling and monitoring fishing activities to identify vessels at sea. It is common practice, under merchant shipping law, to require vessels, to bear identification marks in order to be registered. In addition, fishing vessels may be required to bear specific identification marks as determined by fisheries authority, which can include also an indication of the area where it is authorized to fish (e.g. Egypt). The marking of fishing gear is also intended to ensure that lost gear is retrieved.

7.4. Reporting and logbook

Conservation and management decisions should be based on the best scientific evidence available. To this end, States should undertake research and data collection in order to improve the scientific and technical knowledge about fisheries. In this context, gathering timely, complete and reliable data on catch and fishing effort is a crucial task for States and RFMOs to evaluate the current state of the fishery resources and to allow sound conservation and management decisions.

General reporting requirements are found in most GFCM Members legislation. Frequency of reporting may vary (e.g. every day, at periodical terms, after each trip, when transshipments are made). Special reports may be required if unexpected events occur (if for instance a marine mammal is entangled in the nets[65]). While national vessels are generally required to report wherever they fish, foreign vessels may have a corresponding obligation only when they fish in the waters of the coastal State concerned (e.g. Algeria).

Masters or owners of a fishing vessel, especially those beyond a certain length[66], are also required to keep a logbook. In some cases, reporting is imposed for only specific fishing

[65] See *supra* p. 43.

[66] Under EU Regulation 1224/2009, masters of fishing vessels of 10 m length overall or more are required to keep a fishing logbook of their operations, indicating specifically all quantities of each species caught and kept on board above 50 kg of live-weight equivalent.

activities (e.g. for sponge diving in Syria, for trawl and sardine fishing in Tunisia, for small pelagic fishing in Morocco). Usually the information to be recorded in it relates to the quantity of fish caught, size, species, place and time of catch, gear used, dates of departure and arrival at ports. In this connection, under GFCM Recommendation 35/2011/1, GFCM Contracting Parties are bound to require to the masters of fishing vessels more than 15 meters in overall length (LOA) authorized to fish in the GFCM area and registered on the GFCM Record of Vessels to keep a logbook of their operations, indicating *inter alia* the quantities of each species caught and kept on board, above 50 kg in live weight, the date and geographical positions of such catches and the type of gear(s) used. Legislation may also require that data recorded in the logbook be transmitted by electronic means to the competent authority.

7.5. Controls at landing of catch

The information contained in the fishing logbooks should be verified at the time of landing. Provisions regulating the landing of catch in national ports are easily found in national fisheries legislation. Under EU fisheries legislation (Regulation 1224/2009), masters of certain fishing vessels are required to notify the competent authorities of relevant information at least four hours before the estimated arrival at ports and to complete and transmit by electronic means a landing declaration within 24 hours after completion of the landing operation. Some States provide for an authorization scheme for the landing of catches in national ports. In a number of States, the landing of fish or fish products can be made only in designated ports, unless otherwise authorized (e.g. Algeria, Tunisia). Under EU Regulation 1967/2006, catches of bottom trawlers, pelagic trawlers, purse seines, surface longliners, boat dredges and hydraulic dredges can be landed and marketed for the first time only at any of the ports designated by the Mediterranean Member States concerned.

7.6. Transshipment

Transshipment at sea, intended at the unloading of fisheries products on board a vessel to another vessel, is either prohibited (e.g. Algeria) or strictly regulated and controlled by most GFCM Members. This kind of operations can easily escape any proper control by flag or coastal States and constitute a possible way to carry illegal catch. Many flag States require that fishing, transport and support vessels involved in transshipment obtain a prior authorization (e.g. in Malta, the Minister responsible for fisheries may regulate the licencing for transshipment by providing, *inter alia*, for the areas in which transshipping may take place, the times when fish may be transshipped or transported, the numbers of transshipments

and transportations that may be undertaken and the quantities and descriptions of fish that may be transshipped or transported) and report to the national fisheries authorities the required information about such operations.

7.7. Observer programmes

Some GFCM countries provide for the establishment of observers programmes under which persons authorised by a national authority to observe the implementation of fisheries rules are placed on board fishing vessels (e.g. Algeria, Malta). Masters must provide adequate accommodation for observers and facilitate their work. Observers are sometimes used also to collect and record data from representative fish samples for purposes of scientific research. It is important that the tasks of observers are clearly established in advance. Observers must be qualified for their tasks and be independent from the owner and the master of the fishing vessel where they operate.

7.8. Vessel Monitoring Systems

Monitoring, control and surveillance systems in national laws and international instruments have greatly progressed in the last decades to reflect advances in technology and easier access to communication mechanisms[67]. More and more coastal States have decided to establish satellite-based systems to monitor fishing vessels. VMSs are used to determine the position of duly authorized fishing vessels operating within waters under national jurisdiction or on the high-seas. Under EU Regulation 1224/2009 Member States are required to operate a satellite-based VMS and fishing vessels of 12 m length overall or more must be equipped with a device allowing their automatic identification and location by transmitting position data at regular intervals. Member States are also required to establish and operate fisheries monitoring centres, intended as operational centres equipped with computer hardware and software enabling automatic data reception, processing and electronic data transmission. Minimum standards are also required to the GFCM Members for the establishment of a VMS in the GFCM area, pursuant to Recommendation 33/2009/7.

[67] Today satellite-based monitoring systems have replaced to a great extent other kinds of communication systems previously in use (e.g. radar, radio).

7.9. Inspections

Inspection is a broad concept covering both at-sea and in-port inspections. Specific inspection benchmarks are sometimes set forth by the States concerned. It is often provided in national legislation that inspections must be conducted by the authorized State officials in such a manner as to cause the least inconvenience to the vessel and its activities and to prevent any degradation of the catch. At-sea inspections are carried out by authorized officers within waters under national jurisdiction to ensure that fishing operations are conducted in conformity with the rules and regulations laid down in the fisheries law. They encompass examination of vessel's documents (e.g. fishing licenses, logbook), fishing gear and catch retained on board. Given the urgent need to curb IUU fishing on the high seas and on the basis of the recent international fisheries instruments, at-sea inspections on the high seas may also include fishing vessels flying the flag of another State, if this is allowed under a treaty to which the latter is a part.

Inspections in port are of two types, namely those prior to licensing and the routine inspections. Technical inspections prior to licensing are used to check that the vessel for which a license is sought complies with the required technical and safety standards and that the fishing gears on board conform to the technical specifications, as prescribed in the fisheries law. Routine in-port inspections include control of the catch on board the vessel and the catch to be landed (e.g. size, health), examination of the vessel's documents, control of fishing gear on board and control of sanitary conditions. EU Regulation 1224/2009 binds Member States to set up and keep up to date an electronic database where they upload all inspection and surveillance reports drawn up by their officials.

7.10. Sanctions

As in any other cases of violations of criminal or administrative provisions, the breach of a rule of the fisheries legislation entails sanctions, which in most cases consist of fines of different amount depending on the gravity of the violation. Only for the most serious breaches, the national legislation of a number of States sets forth the sanction of imprisonment. However, it should be reminded that, under Article 73, para. 3 of the UNCLOS, sanctions for violations of fisheries laws and regulations may not include imprisonment.

According to CCRF, "sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities. Such

sanctions may, for serious violations, include provisions for the refusal, withdrawal or suspension of the authorization to fish" (Art. 8.2.7). Under EU Regulation 1224/2009, serious infringements to fisheries rules[68] should be fought by dissuasive sanctions, taking into account the nature of the damage, the value of the fishery products obtained, the economic situation of the offender and any repetition of the infringement. In the specific case of fisheries legislation, some accessory sanctions are often more effective, because of their deterrent results, than ordinary monetary sanctions. This may be the case of the suspension or the withdrawal of the fishing license, of the confiscation of catches and fishing gears and especially of the arrest and confiscation of the fishing vessel itself. However, according to Article 73, para. 2, of the UNCLOS, applicable within the EEZ, "arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security"[69].

EU Regulation 1224/2009 provides that sanctions for serious infringements are complemented by a point system on the basis of which a licence can be suspended or withdrawn if a certain number of points have been attributed to the holder. The points assigned are transferred to any future holder of the licence for the fishing vessel concerned.

As regards the crucial question of IUU fishing, EU Regulation 1005/2008 sets forth a system to prevent, deter and eliminate illegal, unreported and unregulated fishing. A certificate demonstrating the legality of the products concerned is required as a precondition for the import of fishery products into the European Union[70]. The exportation of catches from fishing vessels flying the flag of a Member State is also subject to a certification scheme under the framework of cooperation with third countries. A EU IUU vessel list is established for fishing vessels flying the flag of a third country or the flag of a EU member country that have been engaged in IUU fishing, where the competent flag States have not taken effective action in response to such fishing. The list includes vessels for which sufficient information has been obtained under predetermined criteria to presume that they have engaged in IUU fishing. In addition, vessels identified in IUU vessel lists adopted by regional fisheries management organisations are included in the EU IUU vessel list. Moreover, a list of non-cooperating third countries is established under Regulation 1005/2008. A number of measures are envisaged in

[68] Art. 90 of EU Regulation 1224/2009 provides a list of serious infringements.

[69] The International Tribunal of the Law of the Sea has already entertained several cases of prompt release of fishing vessels under the relevant UNCLOS provisions such as: the "Camouco" Case *(Panama v. France),* Tribunal Case No. 5, judgment of 7 February 2000 or the "Hoshinmaru" Case *(Japan v. Russian Federation)*, Tribunal Case No. 14, judgment of 6 August 2007.

[70] The catch certificate is validated by the flag State of the fishing vessel concerned. Catch documents validated in conformity with catch documentation schemes adopted by regional fisheries management organizations are also, under certain conditions, accepted.

respect of fishing vessels including in the EU IUU vessel list and of non-cooperating third countries[71].

With the recent diffusion of port State control schemes, also the denial of entry into ports for landing, transshipping, packaging, and processing of fish and for other port services, including, *inter alia*, refueling and resupplying, maintenance and dry docking, can be considered as supplementary sanction which affects vessels engaging in IUU fishing. This should not however prevent the imposing of the ordinary sanctions by the competent flag States.

The EU regime (Regulation 1224/2009) has the unique characteristic of allowing the "sanctioning" of Member States themselves. Financial assistance under the common fisheries policy is made conditional upon compliance by Member States with their obligations in the field of fisheries control. Such assistance may be suspended or cancelled in case of inadequate implementation of control rules which affects the effectiveness of the measures being financed. Moreover, where a Member State does not respect its obligations for the implementation of a multiannual plan and there is evidence that this constitutes a serious threat to the conservation of the stock concerned, the fisheries affected by those shortcomings may be provisionally closed to the State concerned.

[71] See respectively Arts. 37 and 38 of EU Regulation 1005/2008.

APPENDIX

PARTICIPATION OF MEDITERRANEAN AND BLACK SEAS STATES TO TREATIES RELATING TO FISHERIES[72]

1. AGREEMENT FOR THE ESTABLISHMENT OF THE GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

Adopted: Rome, 24 September 1949

Depositary: Director-General of the Food and Agriculture Organization (FAO)

Participation: Open to States members or associate members of FAO and regional economic integration organizations

Entry into force: 20 February 1952, in accordance with Art. XIV: "This Agreement shall enter into force as from the date of receipt of the fifth instrument of acceptance"

Number of Parties: 24

Amendments:

- Amendments (1963), in force in May 1963

- Amendments (1976), in force in December 1976

- Amendments (1997), first set in force on 6 November 1997

- Amendments (1997), second set in force on 29 April 2004 for States marked with •

TABLE OF PARTICIPATION

	Date of deposit of instrument
Albania •	10 Apr 1991
Algeria •	11 Dec 1967

[72] The date indicated is the date on which the State in question has deposited an instrument expressing its consent to be bound by the treaty, whatever its particular designation (ratification, acceptance, approval, accession, formal confirmation, etc.). The tables do not indicate the date of signature, as signature in most cases does not express the consent to be bound by a treaty. "(s)" indicates a declaration of succession. * indicates that the State deposited a declaration and ** that the State deposited a reservation.

Bosnia and Herzegovina	-
Bulgaria •	3 Nov 1969 **
Croatia •	22 May 1995
Cyprus •	10 Jun 1965
Egypt	19 Feb 1951
European Union •	25 Jun 1998
France •	8 Jul 1952
Georgia	-
Greece •	7 Apr 1952
Israel	20 Feb 1952
Italy •	29 May 1950
[Japan] •	12 Jun 1997
Lebanon •	14 Nov 1960
Libya •	13 May 1963
Malta •	29 Apr 1965
Monaco •	14 May 1954
Montenegro[73]	
Morocco •	17 Sep 1956
Romania •	19 Feb 1971
Russia	-
Slovenia •	25 May 2000
Spain •	19 Oct 1953
Syria	12 Dec 1975
Tunisia •	22 Jun 1954
Turkey •	6 Apr 1954
Ukraine	-
United Kingdom[74]	-

[73] Succession to Serbia-Montenegro.

2. INTERNATIONAL CONVENTION FOR THE CONSERVATION OF ATLANTIC TUNAS

Adopted: Rio de Janeiro, 14 May 1966

Depositary: Director-General of FAO

Participation: Open to States members of the United Nations or Specialized Agencies of the United Nations and to intergovernmental economic integration organizations constituted by States that have transferred to it competence over matters governed by the Convention, including the competence to enter into treaties in respect to those matters

Entry into force: 21 March 1969, in accordance with Art. XIV, para. 3: "This Convention shall enter into force upon the deposit of instruments of ratification, approval, or adherence by seven Governments and shall enter into force with respect to each Government which subsequently deposits an instrument of ratification, approval, or adherence on the date of such deposit"

Number of Parties: 48

Amendments:

- Protocol (Paris, 10 July 1984), in force on 14 December 1997

- Protocol (Madrid, 5 June 1992), in force on 10 March 2005

TABLE OF PARTICIPATION

	Date of deposit of instrument	Withdrawal effective from
Albania	31 Mar 2008	
Algeria	16 Feb 2001	
Bosnia and Herzegovina	-	
Bulgaria	-	
Croatia	20 Oct 1997	
Cyprus	-	1 May 2004
Egypt	3 Oct 2007	
European Union	14 Nov 1997	

[74] The United Kingdom, that had deposited its acceptance on 20 November 1950, has withdrawn from the Agreement with effect from 25 June 1968.

France	-	4 Nov 1997
Georgia	-	
Greece	-	
Israel	-	
Italy	-	4 Nov 1997
Lebanon	-	
Libya	27 Nov 1995	
Malta	-	1 May 2004
Monaco	-	
Montenegro	-	
Morocco	26 Nov 1969	
Romania	-	
Russia	7 Jan 1977	
Slovenia	-	
Spain	-	4 Nov 1997
Syria	2 Nov 2005	
Tunisia	16 Dec 1997	
Turkey	4 Jul 2003	
Ukraine	-	
United Kingdom	-	4 Nov 1997

3. UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Opened to signature: Montego Bay, 10 December 1982

Depositary: Secretary-General of the United Nations

Participation: Open to States, and, according to Art. 305, "[…] (c) all self-governing associated States which have chosen that status in an act of self-determination supervised and approved by the United Nations in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters; (d) all self-governing associated States which, in accordance with their respective instruments of association, have competence over the matters governed by this Convention, including the competence to enter into treaties

in respect of those matters; (e) all territories which enjoy full internal self-government, recognized as such by the United Nations, but have not attained full independence in accordance with General Assembly resolution 1514 (XV) and which have competence over the matters governed by this Convention, including the competence to enter into treaties in respect of those matters; (f) international organizations, in accordance with Annex IX"

Entry into force: 16 November 1994, in accordance with Art. 308: "1. This Convention shall enter into force 12 months after the date of deposit of the sixtieth instrument of ratification or accession. 2. For each State ratifying or acceding to this Convention after the deposit of the sixtieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession, subject to paragraph 1"

Number of Parties: 162

TABLE OF PARTICIPATION

	Date of deposit of instrument
Albania	23 Jun 2003
Algeria	11 Jun 1996 *
Bosnia and Herzegovina	12 Jan 1994 (s)
Bulgaria	15 May 1996
Croatia	5 Apr 1995 (s)*
Cyprus	12 Dec 1988
Egypt	26 Aug 1983*
European Union	1 Apr 1998*
France	11 Apr 1996*
Georgia	21 Mar 1996
Greece	21 Jul 1995*
Israel	-
Italy	13 Jan 1995*
Lebanon	5 Jan 1995
Libya	-
Malta	20 May 1993*
Monaco	20 Mar 1996
Montenegro	23 Oct 2006 (s)*
Morocco	31 May 2007*

Romania	17 Dec 1996*
Russia	12 Mar 1997*
Slovenia	16 Jun 1995 (s)*
Spain	15 Jan 1997*
Syria	-
Tunisia	24 Apr 1985*
Turkey	-
Ukraine	26 Jul 1999 *
United Kingdom	25 Jul 1997*

4. AGREEMENT TO PROMOTE COMPLIANCE WITH INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES BY FISHING VESSELS ON THE HIGH SEAS

Adopted: Rome, 24 November 1993

Depositary: Director-General of the FAO

Participation: Open to States and regional economic integration organizations

Entry into force: 11 September 2003, in accordance with Art. XI: "1. This Agreement shall enter into force as from the date of receipt by the Director-General of the twenty-fifth instrument of acceptance. 2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by Member States of such an organization"

Number of Parties: 39

TABLE OF PARTICIPATION

	Date of deposit of instrument
Albania	8 Nov 2005
Algeria	-
Bosnia and Herzegovina	-
Bulgaria	-
Croatia	-
Cyprus	19 Jul 2000

Egypt	14 Aug 2001
European Union	6 Aug 1996
France	-
Georgia	7 Sep 1994
Greece	-
Israel	-
Italy	-
Lebanon	-
Libya	-
Malta	-
Monaco	-
Montenegro	-
Morocco	30 Jan 2001
Romania	-
Russia	-
Slovenia	-
Spain	-
Syria	13 Nov 2002**
Tunisia	-
Turkey	-
Ukraine	-
United Kingdom	-

5. AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Opened to signature: 4 December 1995

Depositary: Secretary-General of the United Nations

Participation: Open to States and to the other entities referred to in article 305 of the Convention (No. 4)

Entry into force: 11 December 2001, in accordance with Art. 40: "1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession. 2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession"

Number of Parties: 78

TABLE OF PARTICIPATION

	Date of deposit of instrument
Albania	-
Algeria	-
Bosnia and Herzegovina	-
Bulgaria	13 Dec 2006*
Croatia	-
Cyprus	25 Sep 2002
Egypt	-
European Union	19 Dec 2003*
France	19 Dec 2003*
Georgia	-
Greece	19 Dec 2003*
Israel	-
Italy	19 Dec 2003*
Lebanon	-
Libya	-
Malta	11 Nov 2001*
Monaco	9 Jun 1999
Montenegro	-
Morocco	-
Romania	16 Jul 2007
Russia	4 Aug 1997*
Slovenia	15 Jun 2006*
Spain	19 Dec 2003*

Syria	-
Tunisia	-
Turkey	-
Ukraine	27 Feb 2003
United Kingdom	19 Dec 2003*

6. AGREEMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL UNREPORTED AND UNREGULATED FISHING

Adopted: Rome, 22 November 2009

Depositary: Director-General of FAO

Participation: Open to States and regional economic integration organizations

Entry into force: Not yet in force. Under Art. 29, para. 1: "the Agreement shall enter into force thirty days after the date of deposit with the Depositary of the twenty-fifth instrument of ratification, acceptance, approval or accession". Under Art. 29, para. 2: "for each signatory which ratifies, accepts or approves this agreement after its entry into force, this Agreement shall enter into force thirty days after the date of the deposit of its instrument of ratification, acceptance or approval"

Number of Parties: 0

TABLE OF PARTICIPATION

	Date of deposit of instrument
Albania	-
Algeria	-
Bosnia and Herzegovina	-
Bulgaria	-
Croatia	-
Cyprus	-
Egypt	-
European Union	7 Jul 2011
France	-
Georgia	-
Greece	-

Israel	-
Italy	-
Lebanon	-
Libya	-
Malta	-
Monaco	-
Montenegro	-
Morocco	-
Romania	-
Russia	-
Slovenia	-
Spain	-
Syria	-
Tunisia	-
Turkey	-
Ukraine	-
United Kingdom	-