

Project for the preparation of a Strategic Action Plan for the conservation of biological Diversity in the Mediterranean Region (SAP BIO)

**LEGAL ANALYSIS OF THE MEASURES ADOPTED BY MEDITERRANEAN COASTAL STATES TO MINIMIZE THE IMPACT OF FISHING ACTIVITIES ON MARINE ECOSYSTEMS AND NON-TARGET SPECIES**



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**RAC/SPA - Regional Activity Centre for Specially Protected Areas  
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This document was prepared within the framework of a Memorandum of Understanding (MoU) concluded between the Regional Activity Center for Specially Protected Areas (RAC/SPA), and the Fisheries department of the Food and Agriculture Organization of the United Nations (FAO) concerning the role to be played by FAO within the framework of SAP BIO project.

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## INTRODUCTION

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In 1999, a Memorandum of Understanding (MoU) was concluded between FAO and the Regional Activity Center for Specially Protected Areas. This MoU consists of an agreement on the basis of which FAO is required to prepare studies that will serve as an input to the Mediterranean Sea Action Plan (MAP). In this context, the present study was undertaken to help formulate regional guidelines aimed at facilitating the national processes for the elaboration of national strategic action plans to face up to the impact of fishing activities on biological diversity. This study, which is principally based on the information available in the legal database kept by the FAO Legal Office (FAOLEX), analyzes the measures provided for by the Mediterranean coastal states' national legislation to minimize the impact of fishing activities on marine ecosystems as well as on non-target species and threatened or endangered species. In particular, it examines national laws and regulations with regard to licensing of fishing operations, fishing gear, fishing capacity, marine protected areas, time and area restrictions, incidental catch, data collection and reporting requirements.

The FAO Code of Conduct for Responsible Fisheries (hereinafter the Code)<sup>1</sup>, which is a voluntary instrument, is now widely recognized as the key instrument of reference for fisheries managers throughout the world. The Code provides principles and standards applicable to the conservation, management and development of the world's fisheries. It calls on states to ensure that an effective legal and administrative framework at local and national level is established for fisheries resource conservation and fisheries management. It is therefore the duty of the states to adopt appropriate legal mechanisms to carry out the objectives set out in fisheries policy or fisheries management plans. The contribution made by legal mechanisms on the topics mentioned above to the protection of biological diversity is best understood in the light of the general principles laid out in the Code.

Licensing the fishing operations of national or foreign fishing vessels within waters under national jurisdiction enables coastal states to control access to the fisheries therein and regulate their level of exploitation. The Code puts special emphasis on flag states' responsibility with regard to fishing operations undertaken by vessels flying their flag on the high seas. Flag states should not only authorize fishing vessels flying their flag to fish on the high seas but also exercise control over those vessels so as to ensure proper application of the Code. In particular, they should ensure that their activities do not undermine the effectiveness of conservation and management measures taken in accordance with international law and adopted at national, subregional, regional or global level (Article 6.11 of the Code).

The Code encourages the development and application of selective and environmentally safe fishing gear and practices in order to maintain biological diversity and to conserve the population structure and aquatic ecosystems and protect fish quality. In addition, states and users of aquatic ecosystems are required to minimize waste, catch of non-target species and impacts on associated or dependent species (Article 6.6 of the Code). Consequently, coastal states must obligatorily adopt

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<sup>1</sup> The Code was unanimously adopted on 31 October 1995 by the FAO Conference.

appropriate measures regulating fishing gear characteristics and the conditions of their use as well as fishing methods.

Recognizing the need to prevent overfishing, the Code urges states to take all necessary measures to eliminate excessive fishing capacity in order to ensure that the fishing effort is commensurate with the productive capacity of the fishery resources and their sustainable utilization (Article 6.4 of the Code). Therefore, states must exercise control over fishing capacity and, where appropriate, implement measures designed to reduce excess fishing capacity.

States are required to provide adequate protection of critical fisheries habitats in both marine and fresh water ecosystems so as to ensure the health and viability of the fishery resources (Article 6.8 of the Code). This can be done by establishing marine protected areas or proclaiming temporary or permanent fishing prohibited areas.

Since conservation and management measures should be based on the best scientific evidence available, states should assign priority to undertaking research and data collection in order to improve scientific and technical knowledge of fisheries (Article 6.4 of the Code). It is therefore crucial that they devise and implement mechanisms designed to collect information on the fishing activities undertaken by both foreign and national fishing vessels operating within waters under their jurisdiction and by national fishing vessels authorized to fish on the high seas.

This study reviews the various arrangements and organizations that have been established to promote regional cooperation in the fields of the environment and fisheries in the Mediterranean (Part 1). It analyses the national fisheries legislation<sup>2</sup> enacted by each of the twenty-two coastal states<sup>3</sup> surrounding the Mediterranean Basin in order to determine whether the issues mentioned above, that aim at minimizing the impact of fishing on biological diversity, have been adequately addressed within the national legal frameworks (Part 2). Finally, it provides general recommendations designed to improve fisheries legislation with respect to the protection of biological diversity (Part 3).

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<sup>2</sup> For the purpose of this study, fisheries legislation should be construed as including laws (law, act) and regulations (decrees, orders etc.).

<sup>3</sup> This study also includes a review of the European Union fisheries regulations.

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# PART ONE

## REGIONAL COOPERATION IN THE FIELDS OF THE ENVIRONMENT AND FISHERIES

# 1.

## Regional cooperation for the protection of Mediterranean biological diversity

In 1975, the Mediterranean states adopted the Mediterranean Action Plan (MAP) within the framework of the UNEP regional sea programme. One of the main objectives of this plan was to establish a framework convention for the protection of the Mediterranean environment.

The Barcelona Convention for the Protection of the Mediterranean Sea against Pollution, which was adopted on 16 February 1976, entered into force on 12 February 1978. This framework convention is supplemented by a series of 6 implementing protocols dealing with specific aspects of environmental protection<sup>4</sup>. Of interest for our study is the Protocol Concerning Mediterranean Specially Protected Areas (the 1982 Protocol), which was adopted in Geneva on 1 April 1982 and entered into force on 23 March 1986. In 1995 and 1996 the MAP and the Barcelona system underwent important changes in order to reflect the evolution of international law in the environment protection field, as embodied in the documents adopted by the United Nations Conference on the Environment and Development (Rio de Janeiro, 1992). With regard to the issue of protected areas, the Parties to the Barcelona Convention adopted a new text intended to replace the 1982 Protocol. As of writing, the 1995 Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean has not yet entered into force.

### **1.1. Protocol concerning specially protected areas and biological diversity in the Mediterranean (the 1995 Protocol)**

Whereas the geographical scope of the 1982 Protocol was limited to the territorial sea of the Parties, that of the 1995 Protocol extends to all marine waters in the Mediterranean, irrespective of their legal status, thus including the high seas. The extension of the geographical scope of the Protocol was necessary to ensure that highly migratory marine species were protected throughout their range area.

The 1995 Protocol provides for making a list of specially protected areas of Mediterranean interest, the 'SPAMI List'. The SPAMI List may include sites which (Article 8.2):

- "are of importance for conserving the components of biological diversity in the Mediterranean

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<sup>4</sup> These instruments are often referred to as the "Barcelona system".

- contain ecosystems specific to the Mediterranean area or the habitats of endangered species
- or are of special interest at the scientific, aesthetic, cultural and educational levels”.

The procedures for establishing and listing SPAMIs, either in the marine and coastal zones subject to the sovereignty or jurisdiction of the Parties or in zones partly or wholly on the high seas, appear in Article 9. With respect to areas situated partly or wholly on the high seas, the proposal must be made by two or more neighboring Parties and the decision to include the areas on the SPAMI List is taken by consensus by the Parties during their periodical meetings. Once the areas are included on the SPAMI List, the Parties agree to “recognize the particular importance of these areas for the Mediterranean” and “to comply with the measures applicable to the SPAMIs and not authorize nor undertake any activities that might be contrary to the objectives for which the SPAMIs were established” (Article 8.3). The relationship with third parties is governed by Article 27, which provides that “(T)he Parties shall invite States that are not Parties to the Protocol and international organizations to cooperate in the implementation of this Protocol” and that “(T)he Parties undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles or purposes of this Protocol” (Scovazzi, 1999)<sup>5</sup>.

The 1995 Protocol requires Parties, in the areas subject to their sovereignty or jurisdiction, to “identify and compile lists of the endangered or threatened species of flora or fauna and accord protected status to such species” (Article 11.2). Parties are urged to provide these species with adequate protection by restricting and, where appropriate, prohibiting the taking, including the incidental taking, of these species (Article 11.3 (a)). With respect to migratory species whose range extends into the area to which the Protocol applies, the Parties “shall coordinate their efforts, through bilateral or multilateral action, including if necessary, agreements for the protection and recovery of [these] migratory species” (Article 11.4).

The 1995 Protocol is completed by three annexes, which are the Common criteria for the choice of protected marine and coastal areas that could be included on the SPAMI List (Annex I), the List of endangered or threatened species (Annex II), and the List of species whose exploitation is regulated (Annex III). A number of species of mollusks, crustaceans and fish are listed as endangered or threatened species. Likewise, the list of species whose exploitation is regulated contains several species of sponge, crustacean and fish.

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<sup>5</sup> Scovazzi, *Marine Specifically Protected Areas*, in *International Environmental Law and Policy Series* Vol. No. 52, 1999.

## 1.2. The Monaco Agreement on the Conservation of Cetaceans

In 1996, the Agreement on the Conservation of Cetaceans of the Black Sea, the Mediterranean Sea and the Contiguous (*now Adjacent*) Atlantic Area<sup>6</sup> (ACCOBAMS) was adopted within the framework of the Convention on the Conservation of Migratory Species of Wild Animals<sup>7</sup>. Under this Agreement, Parties are required to “take co-ordinated measures to achieve and maintain a favourable conservation status for cetaceans” and to “prohibit and take all necessary measures to eliminate, where this is not already done, any deliberate taking of cetaceans” (Article II.1). The Agreement is completed by annexes. Annex 2 dealing with the conservation plan provides for the measures the Parties undertake to adopt, which include a ban on keeping on board a vessel, or using for fishing, one or more driftnets whose individual or total length exceeds 2,500 m.

## 1.3. Marine mammals sanctuary

In 1993, France, Italy and Monaco signed a declaration, before finalizing, in 1999, an agreement to establish a sanctuary for the protection of marine mammals in the Mediterranean. This international marine sanctuary, which in addition to the internal waters and the territorial sea of the three states would include areas of high seas, is intended to ensure adequate protection for all species of marine mammals occurring therein. Among the various protection measures envisaged, the three States will prohibit within the marine sanctuary any deliberate catching or harassing of marine mammals, as well as the use and possession of driftnets for fishing pelagic species.

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<sup>6</sup> As of writing, this Agreement has not yet entered into force.

<sup>7</sup> This Convention was adopted in Bonn on 23 June 1979.

## 2.

# Regional cooperation for the conservation and management of Mediterranean fisheries

Under the UNCLOS, the Mediterranean Sea falls within the category of enclosed or semi-enclosed seas, which are defined as any “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” (Article 122). The Mediterranean Sea fits one of the two alternative criteria, being connected to the Atlantic Ocean by the narrow outlet of the Strait of Gibraltar. It would also satisfy the second alternative criteria if the coastal states proclaimed an exclusive economic zone<sup>8</sup>. The legal consequences arising from this status are not significant, as UNCLOS does not subject these areas to any specific legal system. It simply requires that states bordering enclosed or semi-enclosed seas cooperate directly or through an appropriate regional organization to, *inter alia*, “coordinate the management, conservation, exploration and exploitation of the living resources of the sea” (Article 123).

To date, two regional fisheries organizations dealing with fisheries issues in the Mediterranean have been established, namely the General Fisheries Commission for the Mediterranean (GFCM) and the International Commission for the Conservation of Atlantic Tunas (ICCAT).

### 2.1. General Fisheries Commission for the Mediterranean<sup>9</sup>

The GFCM was created in Rome by an agreement of 24 September 1949. It entered into force on 20 February 1952 and was amended in 1963 and 1976. As of December 1997, twenty-one Mediterranean and Black Sea states and one non-Mediterranean state were members of the GFCM<sup>10</sup>. The purpose of the GFCM is to

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<sup>8</sup> The Mediterranean Sea would consist entirely of territorial seas and exclusive economic zones if coastal states proclaimed an economic exclusive zone. Hitherto, they have been reluctant to do so. One of the principal reasons behind this choice may be the difficulty of delimiting the maritime areas therein.

<sup>9</sup> Initially known as the General Fisheries Council for the Mediterranean, the name Council was changed to Commission during its 22<sup>nd</sup> session, held in Rome on 13-16 October 1997.

<sup>10</sup> Albania, Algeria, Bulgaria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Morocco, Romania, Spain, Syria, Tunisia, Turkey and Yugoslavia. Japan accepted the

promote the development, conservation, rational management and best utilization of living marine resources occurring in the Mediterranean, the Black Sea and connecting waters, both in areas under national jurisdiction and on the high seas. In order to achieve its goal, the GFCM can, by a two-thirds majority, adopt recommendations on measures for the conservation and rational management of living marine resources. These measures may regulate fishing methods and gear, prescribe the minimum size of species of fish, establish open and close fishing seasons and areas, and determine the amount of total catch and fishing effort as well as their allocation among member states (Article III.1 (b)). Member states must give effect to these recommendations, unless they object to doing so, within 120 days from the date of notification (Article V.3).

It was not until 1995 that the GFCM formulated binding recommendations. It adopted ICCAT management measures regarding the taking and landing of bluefin tuna or *Thunnus thynnus* (Resolution No. 95/1). This resolution provides, *inter alia*, that large pelagic longliners exceeding 24 m in length will be forbidden to fish bluefin tuna (*Thunnus thynnus*) during the reproduction period from 1 June to 31 July; the members of GFCM take all necessary measures to prohibit any taking and landing of bluefin tuna (*Thunnus thynnus*) weighing less than 6.4 kg. (It specifies that member states may tolerate small proportions of incidental catch of bluefin tuna weighing less than 6.4 kg, provided that they do not exceed 15% of the total catch of bluefin tuna).

Three other binding recommendations were adopted in 1997. Resolution No. 97/1 forbids any vessel flying the flag of a GFCM Contracting Party to keep on board, or use for fishing, one or more drifnets whose individual length is more than 2.5 km. It specifies that throughout the area beyond the 12-mile coastal band, the net must, if it exceeds 1 km in length, remain attached to the vessel. The GFCM adopted a resolution reflecting the ICCAT recommendation on the banning of purse seine fishing for bluefin tuna during the month of August each year and the use of helicopters and planes in support of fishing operations in the month of June (Resolution No. 97/3). Furthermore, the GFCM calls upon states which are not members of the GFCM, but whose vessels engage in fishing activities in the region, to become members of the GFCM or otherwise cooperate in implementing the recommendations made by the Commission. It also urges the member states to report to the Commission on any fishing activities by vessels flying the flag of non-member states which undermine the effectiveness of GFCM recommendations (Resolution No. 97/2).

## **2.2. International Commission for the Conservation of Atlantic Tunas**

ICCAT was established in 1969, at a Conference of Plenipotentiaries, which prepared and adopted the International Convention for the Conservation of Atlantic

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GFCM Agreement in 1997. In 1998, the European Union became a member of GFCM by a Council Decision of 16 June 1998 on the accession of the European Community to the General Fisheries Commission for the Mediterranean (OJ No. L190 of 4 July 1998, p. 34).

Tunas, which was signed in Rio de Janeiro on 14 May 1966<sup>11</sup>. It is designed to ensure the sustainable exploitation of Atlantic tuna and tuna-like species in the Atlantic Ocean and adjacent seas (Article I) and thus applies to the Mediterranean. ICCAT, on the basis of scientific research conducted under its auspices, is empowered to make recommendations aiming at ensuring the maximum sustainable catch. These recommendations, if not objected to by a majority of Parties, are binding on all Parties, except those which register formal objections (Article VIII).

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<sup>11</sup> The Convention entered into force on 21 March 1969. Currently, there are 28 Contracting Parties, including France, Morocco, Libya, Croatia, the European Union and Tunisia. See ICCAT website at [www.iccat.es/](http://www.iccat.es/), which was last consulted on 18 September 2000.

## BOX 1

### Main recommendations applicable to the Mediterranean Sea concerning bluefin tunas (*Thunnus thynnus*)

Recommendation No. 74/1, which was adopted in November 1974<sup>12</sup>, provides that "Contracting Parties take the necessary measures to prohibit any taking and landing of bluefin tuna (*Thunnus thynnus*) weighing less than 6.4 kg" and specifies that "the Contracting Parties may grant tolerances to boats which have incidentally captured bluefin weighing less than 6.4 kg with the condition that this incidental catch should not exceed 15 percent of the number of fish per landing of the total bluefin catch of said boats or its equivalent in percentage by weight."

Recommendation No. 93/7, which was adopted in November 1993<sup>13</sup>, stipulates that "during the period from June 1 to July 31 there will be no fishery using large pelagic longline fishing vessels greater than 24 m in length for bluefin tuna in the Mediterranean."

Resolution No. 94/7, which was adopted in December 1994, prohibits fishing for bluefin tuna in the Mediterranean during the period from 1 June to 31 July using large pelagic longline fishing vessels exceeding 24 m in length.

Recommendation No. 96/2<sup>14</sup>, which was adopted in November 1996, prohibits "purse seine fishing in the Mediterranean Sea during the period from August 1 to 31" and forbids "the use of airplanes or helicopters supporting fishing operations in the Mediterranean Sea in the month of June". This recommendation was modified by Recommendation No. 98/6<sup>15</sup>, which changed the purse seine closed season period from August 1 to 31 in the Mediterranean to May 1 to 31 for the Adriatic Sea and July 16 to August 15 for other areas of the Mediterranean Sea.

Recommendation No. 96/3, which was adopted in November 1996<sup>16</sup>, prohibits the retaining on board, landing and sale of age 0 bluefin tuna weighing less than 1.8 kg by fishing vessels of Contracting Parties and non-Contracting Parties. The minimum weight of bluefin tuna that can be retained on board, landed or sold was changed to 3.2 kg by Recommendation No. 98/4<sup>17</sup>.

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<sup>12</sup> Recommendation No. 74/1 entered into force on 10 August 1975.

<sup>13</sup> Recommendation No. 93/7 entered into force on 31 May 1994.

<sup>14</sup> Recommendation No. 96/2 entered into force on 4 August 1997.

<sup>15</sup> Recommendation No. 98/6 was adopted in November 1998 and entered into force on 21 June 1999.

<sup>16</sup> Recommendation No. 96/3 entered into force on 4 August 1997.

<sup>17</sup> Recommendation No. 98/4 was adopted in November 1998 and entered into force on 21 June 1999.

## PART TWO

# REVIEW OF NATIONAL FISHERIES LEGISLATION

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The following analysis of national fisheries legislation is essentially based on information available in FAOLEX<sup>18</sup> and has been finalised taking into account the information provided by the National Correspondents of the SAP BIO Project.

Its primary purpose is to determine, by identifying and describing selected measures, whether coastal states bordering on the Mediterranean have adopted a satisfactory legal framework to minimize the impact of fishing activities on biological diversity and marine ecosystems. These measures are the following: licensing of fishing activities, fishing gear and methods, fishing effort (including TAC and quota), fishing capacity, time and area restrictions, minimum fish size, protected species, marine protected areas, data collection and reporting, incidental catch, artificial reefs and fish aggregating devices.

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<sup>18</sup> Information from other sources was available for Morocco, Monaco, Malta, Spain and France.

# 1. ALBANIA

Albania's legal framework pertaining to fisheries relies essentially on three pieces of legislation and regulations, namely **Law No. 7908 of 5 April 1995 on fisheries and aquaculture**, which is the basic fishery law, **Regulation No. 1 of 26 March 1997** implementing Law No. 7908, and **Regulation No. 2 of 20 March 2000** dealing with bivalve mollusk fishing.

## 1.1. Licensing

### 1.1.1. Commercial fishing

**Law No. 7908 of 1995** establishes a licensing system that provides that "every navigating vessel<sup>19</sup> used for professional fishing<sup>20</sup>, as well as any other entity carrying on professional fishing without using any vessel, must have a license" (Article 15.1). Consequently, all commercial fishing activities, regardless of whether or not they use a vessel, are subject to a fishing license. This includes fishing operations that use fixed gear or traps such as the *lavoriero* or fish weir.

A license is required for both national and foreign commercial fishing vessels operating in Albania's territorial waters<sup>21</sup>. Foreign fishing vessels may be authorized to fish therein within the framework of a fishing agreement (Articles 18 and 19). They may also be issued a license if:

- sufficient living resources are available, having due regard to the national fleet's harvesting capacity, or
- the applicant agrees to invest in Albania's fishery sector, provided that such an investment complies with the objectives set out in the fishery management plan (Article 19). In no case can foreign fishing vessels targeting demersal species and using trawl nets be granted a fishing license. Furthermore, foreign fishing vessels are excluded from the bivalve mollusk fishery (Article 20).

No national fishing vessels can operate outside Albanian territorial waters, whether on the high seas or in the waters of another coastal state, without having first

<sup>19</sup> Article 3dh defines *navigating vessel* as "any kind of ship, boat or any other floating means appropriate for navigation".

<sup>20</sup> *Professional fishing* means "fishing for economic purposes" (Article 3c).

<sup>21</sup> Decree No. 7366 of 24 March 1990, modifying Decree No. 4650 of 9 March 1970 on the state borders of the People's Republic of Albania, provides that the territorial waters of the People's Socialist Republic of Albania extend 12 nautical miles seaward measured from the coastline. The purpose of this Decree was to bring Albanian legislation in conformity with international law (Article 3 of the United Nations Convention on the Law of the Sea (UNCLOS) stipulates that "(E)very State has a right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles") by reducing the breadth of its territorial waters from 15 to 12 nautical miles.

obtained a special authorization (Article 16.3). Any vessel complying with safety standards is eligible to apply for such an authorization, with the exception of vessels that were previously registered in a foreign country and which were punished for breaking that country's law<sup>22</sup>.

In principle, a license is required for each and every navigating vessel involved in commercial fishing activities. However, for practical reasons, a collective license can be issued for navigating vessels without a deck such as *sanalle* or *lundra*, provided that the registration number of each navigating vessel<sup>23</sup> to which the collective license applies is specified therein<sup>24</sup>.

The administration responsible for fisheries is vested with the power to impose certain conditions on the use of the license. Conditions specified in the license may determine the area in which the fishing vessel is authorized to operate, the type of fishing gears that can be used and data reporting requirements. The competent administration may also require that scientific observers are put on board any fishing vessel for the purpose of collecting data (Article 16).

In order to have their license renewed, fishing vessels must show a catch record that meets the minimum annual production set for their class of vessel (**Article 50 of Regulation No. 1 of 1997**). Minimum annual productions are set out as follows:

- 500 kV<sup>25</sup> for vessels whose power exceeds 500 Hp
- 400 kV for vessels whose power is more than 300 Hp but less than 500 Hp
- 300 kV for vessels whose power is more than 200 Hp but less than 300 Hp
- 250 kV for vessels whose power is less than 200 Hp.

### 1.1.2. Sport fishing

Sport fishing using a navigating vessel is subject to license, whereas other sport fishing activities can be exercised freely (Article 23). Sport fishing licenses can be granted to sport fishing associations or interested individuals satisfying certification requirements. Although it may authorize the use of several navigating vessels, a single sport-fishing license is issued for each sport fishing association or interested individual. The information to be specified in the license includes the number of navigating vessels authorized to operate under the license, the annual number of fishing days at sea allocated to authorized vessels and the area where sport fishing activities can be exercised<sup>26</sup>.

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<sup>22</sup> Article 60 of Regulation No. 1 of 1997.

<sup>23</sup> Article 13.2 of Law No. 7908 of 1995 requires that "any navigating vessel must be registered in the register of fishing vessels" maintained by the Ministry responsible for fisheries.

<sup>24</sup> Article 27 of Regulation No. 1 of 1997.

<sup>25</sup> kV is a unit of measure equivalent to 100 kg.

<sup>26</sup> Article 56 of Regulation No. 1 of 1997.

## 1.2. Conservation and management measures

### 1.2.1. Commercial fishing

#### 1.2.1.1. Fishing effort

The Ministry responsible for fisheries is required to prepare and periodically review a Fishery and Aquaculture Plan (**Article 8 of Law No. 7908 of 1995**). Conceived as a dynamic planning instrument, the plan requires that the state of the living resources occurring within Albanian territorial waters be regularly assessed on the basis of the best scientific evidence available in order to determine the annual level of exploitation that can be sustained therein. Findings derived from this exercise enable the Ministry to modulate the level of fishing effort by stating the maximum number of fishing licenses that can be issued yearly (**Article 14 of Law No. 7908 of 1995 and Article 10c of Regulation No. 1 of 1997**).

#### 1.2.1.2. Fishing methods

The use of explosives, chemicals or other poisonous or noxious substances or electric devices to catch fish throughout Albania's territorial waters is strictly prohibited (**Article 24b of Law No. 7908 of 1995**).

#### 1.2.1.3. Restrictions on fishing vessels' capacity

In order to ensure sustainability of the bivalve mollusk fishery, the Ministry responsible for fishery has taken measures to limit the capacity of the fishing fleet involved in that fishery. As a result, no fishing vessel may fish bivalve mollusks unless it complies with the following characteristics (**Article 5 of Regulation No.2 of 2000**):

- Maximal length between the perpendiculars must not exceed 10 meters
- Maximal power must not exceed 100 Hp
- Maximal gross weight must not exceed 10 t
- No *turbosofiante*-type equipment may be used to gather bivalve mollusks
- Propeller must not be fitted with a mantle.

With regard to trawlers, only those equipped with an engine of more than 150 Hp and less than 600 Hp can be issued with a fishing license (**Article 52 of Regulation No. 1 of 1997**).

#### 1.2.1.4. Restrictions on fishing gear

The use of trawl nets at depths of under 30 m, as well as in the Bay of Vlora, is prohibited (**Article 41, paragraphs 1 and 2, of Regulation No. 1 of 1997**).

The use of luring devices such as *gabiesh* and *dragnash* to catch fish is prohibited (**Article 53 of Regulation No. 1 of 1997**).

Only fishing nets that comply with the following mesh sizes can lawfully be used in Albania's territorial waters (**Article 54 of Regulation No. 1 of 1997**):

- 40 mm for trawl nets (measured in the codend)
- 16 mm for *koshilok* used to catch sardines, *acuga* and small pelagic fish (measured in the codend)
- 20 mm for *koshilok* used to catch sardines, *acuga* and small pelagic fish (in other parts)
- 48 mm for surrounding *trate* used to catch *cironka* (*Alburnus albus alborella*) along the coastline.

#### 1.2.1.5. Closed area

As a general rule all fishing activities are prohibited within a one-kilometer radius measured from the mouth of all Albanian rivers, except for the Buna River where this prohibited fishing area is extended to a two-kilometer radius (**Article 40 of Regulation No. 1 of 1997**). Likewise, fishing is not allowed in communication channels linking lagoons to the sea as well as within a two-kilometer radius measured from the seaward end of these channels (**Article 42.1 of Regulation No.1 of 1997**).

#### 1.2.1.6. Closed season

*Lavoriero*, or fish weirs, which are fixed v-shaped structures placed in communication channels that link lagoons to the sea, should not be allowed to operate throughout the year, so as to enable lagoons with living resources to be replenished. Thus, *lavoriero* must remain open during specified periods that are determined for each lagoon (**Article 43 of Regulation No. 1 of 1997**).

The fishing of *cironka* (*Alburnus albus alborella*) is prohibited from 1 April to 31 July of each year in coastal areas (**Article 46 of Regulation No. 1 of 1997**).

Bivalve mollusk fishing is subject to annual season closures. Periods of closure vary in relation to species as follows (**Article 6 of Regulation No. 2 of 2000**):

- from 15 June to 15 July for *Venus gallina*, *Kardium* and *Challista chione*
- from 1 April to 30 September for *Kanoliket*
- from 1 April to 30 April for *Donax trunculus*
- from 1 June to 31 July for *Venus verrucosa*.

In addition, bivalve mollusk fishing is not permitted on Saturdays, Sundays and during official holidays throughout the year (**Article 4 of Regulation No. 2 of 2000**).

### 1.2.1.7. Protected species

The catching of sea mammals, such as dolphins, whales and seals, is strictly prohibited in Albania's territorial waters. Likewise, the catching of sharks of the species *Cetorhinus maximus* and *Cacharodon carcharias* is forbidden all year round throughout Albania's territorial waters (**Article 45 of Regulation No. 1 of 1997**). The fishing of corals and sponges is not permitted, though special authorizations may be granted for research purposes (**Article 22 of Law No. 7908 of 1995**). With regard to bivalve mollusks, the fishing of *Litophaga litophaga* is prohibited throughout the year in any area of Albania's territorial waters (**Article 6.2 of Regulation No. 2 of 2000**).

### 1.2.1.8. Minimum fish size

The catching and selling of immature fish, i.e. fish that have not reached the minimum legal size, is prohibited (**Article 48 of Regulation No. 1 of 1997**). The main species whose minimum size is regulated are the following:

Common name	Scientific name	Minimum legal size (cm)
<b>FISH</b>		
Merluc	<i>Merluccius merluccius</i>	20
Merluci tripendesh	<i>Microsistius spp.</i> , <i>Trisopterus spp.</i> , <i>Gaidropsarus spp.</i>	20
Seabass	<i>Dicentrarchus labrax</i>	25
Mullet	<i>Mugil spp.</i> , <i>Liza spp.</i> , <i>Chelon spp.</i>	20
Seabream	<i>Sparus aurata</i>	20
Pagria	<i>Pagrus pagrus</i>	20
Saragojte	<i>Diplodus spp.</i>	15
Spalcat	<i>Pagellus spp.</i>	12
Dentalet	<i>Dentex spp.</i>	25
Salpa	<i>Sarpa salpa</i>	12
Barbunet	<i>Mullus spp.</i>	11
Kerrat	<i>Epinephelus spp.</i> , <i>Polyprion spp.</i>	45
Korbet	<i>Sciaena spp.</i> , <i>Umbrina spp.</i>	25
Stavridat	<i>Trachurus spp.</i>	12
Gofat	<i>Seriola spp.</i>	30
Vopa	<i>Boops boops</i>	10
Ame	<i>Lichia amia</i>	30
Skumret	<i>Scomber spp.</i>	20
Pallamidi	<i>Sarda sarda</i>	30
Sardine	<i>Sardina pilchardus</i>	10
Acuga	<i>Engraulis encrasicolus</i>	10
Sardinela	<i>Sardinella aurita</i>	12
Shproti (papalina)	<i>Spattus spattus</i>	10
Kublat	<i>Alosa fallax</i>	20
Maridhat	<i>Spicara spp.</i>	8

Ton	<i>Thunnus thynnus</i>	70
Alalunga ton	<i>Thunnus alalunga</i>	40
Tonili	<i>Euthynnus alletteratus</i>	30
Peshku shpate	<i>Xiphias gladius</i>	100
Peshku pellumb	<i>Mustelus spp.</i>	30
Shark	<i>Squalus spp., Scyliorhinus spp., Prionace spp.</i>	40
Rajat	<i>Raja spp.</i>	30
Skathinat	<i>Squatina spp.</i>	40
Electric fish	<i>Torpedo spp.</i>	30
Ngjale deti	<i>Conger conger</i>	30
Peshqit kitare	<i>Rhinobatos spp.</i>	30
Gjuhezat	<i>Solea spp.</i>	20
Shojza	<i>Platichthys flessus</i>	15
Shkotrat	<i>Bothus spp., Arnoglossus spp.</i>	30
Rombet	<i>Scophthalmus spp., Psetta spp., Lepidorhombus spp.</i>	30
Jatagani	<i>Lepidopus caudatus</i>	40
Shtiza	<i>Sphyraena spp.</i>	25
Peshku kovac	<i>Zeus faber</i>	15
Peshk gjel	<i>Trigla spp., Aspitriglia spp.</i>	15
Lopa e detit	<i>Lophius piscarorius</i>	30
Aterinat	<i>Atherina spp.</i>	8
Ngjala	<i>Anguilla anguilla</i>	25
<b>CRUSTACEANS</b>		
Karkaleci I detit	<i>Panaeus kerathurus</i>	7
Karkaleci violete	<i>Aristeus antennatus</i>	7
Karkaleci I kuq	<i>Aristaemomorpha foliacea</i>	6
Karkaleci I bardhe	<i>Parapenaeus norvegicus</i>	10
Skampi	<i>Nephrops norvegicus</i>	30
Homaret (asticet)	<i>Homarus spp.</i>	30
<b>CEPHALOPODS</b>		
Kallamaret	<i>Loligo spp.</i>	25
Totanet	<i>Ilex spp.</i>	30
Sepia	<i>Sepia officinalis</i>	20
Octopus	<i>Octopus vulgaris</i>	0.5 kg
<b>BIVALVE MOLLUSK</b>		
Midhja	<i>Mytilus galloprovincialis</i>	5
Vongola	<i>Venus gallina</i>	2.3
Tartufi I detit	<i>Venus verrucosa</i>	2.7
Telini	<i>Donax trunculus</i>	2.2
Vongola verace	<i>Ruditapes decussatus</i>	3.6
Vongola filipine	<i>Ruditapes semidecussatus</i>	3
Ostrea	<i>Ostrea spp.</i>	6
Bicaku	<i>Solen spp.</i>	8
Freskorja	<i>Pecten jacobeus</i>	10

Fazolari (Article 2 of Regulation No. 2 of 2000)	<i>Challista chione</i>	6
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### 1.2.1.9. Limits on catch

Bivalve mollusk fishing activities are subject to daily catch limits (**Article 7 of Regulation 2 of 2000**). In this regard, two separate sets of measures have been adopted. The first set, which applies to fishing vessels that meet the criteria described in paragraph c) above, determines the maximum daily amount of bivalve mollusks that can be harvested by each such vessel. Daily catch per vessel must not exceed:

Species	Bag limit (Kg)
<i>Venus gallina et Cardium</i>	600
<i>Challista chione</i>	500
<i>Donax trunculus</i>	100
<i>Koce pelose, Muscoli et Kanastreli</i>	300
<i>Ostrea spp</i>	100

The second set establishes daily bag limits for individual professional fishermen as follows:

Common name	Scientific name	Bag limit (Kg)
Bicaku	<i>Solen spp.</i>	5
Fazolari	<i>Challista Chione</i>	50
Freskorja	<i>Pecten jacobeus</i>	20
Midhja	<i>Mytilus galloprovincialis</i>	50
Ostrea	<i>Ostrea spp.</i>	30
Tartufi I detit	<i>Venus verrucosa</i>	10
Telini	<i>Donax trunculus</i>	20
Vongola	<i>Venus gallina</i>	10
Vongola filipine	<i>Ruditapes semidecussatus</i>	10
Vongola verace	<i>Ruditapes decussatus</i>	5

### 1.2.1.10. Reporting

Holders of professional or sport fishing licenses are required to report periodically on their fishing activities (**Article 25 of Law No. 7908 of 1995**). To this end, the captain of every commercial fishing boat, whether national or foreign, must keep a logbook in which all the required information must be regularly and legibly recorded. Such information must be submitted to any fishery inspector upon request (**Article 37 of Regulation No. 1 of 1997**). With regard to recording catch, the amount of catch harvested daily must be entered on statistical forms provided by the fishery administration to every license holder. The completed forms must be submitted every

month to the fishery inspectorate (**Article 61 of Regulation No. 1 of 1997**). Likewise, holders of fishing licenses involved in bivalve mollusk fishing are required to report catch data periodically (**Article 3 of Regulation No. 2 of 2000**).

## 1.2.2. Sport fishing

### 1.2.2.1. Fishing gear/equipment

No fishing implements other than hooks and lines, *parangalle* and spear guns can be used for sport fishing (**Article 57 of Regulation No. 1 of 1997**). No more than five hooks can be fitted onto every line. Using light devices to attract fish is generally prohibited, except for hand lights used for underwater fishing (**Article 58 of Regulation No. 1 of 1997**). Spear guns cannot be used within 50 metres of professional fishing gear (**Article 23.2c of Law No. 7908 of 1995**).

No apparatus containing compressed air and used for breathing under water while swimming (scuba) can be used for the purpose of sport fishing (**Article 57 of Regulation No. 1 of 1997**).

### 1.2.2.2. Bag limits

The total amount of catch harvested daily by each individual fisherman must not be more than three kilograms, except when the weight of one single individual exceeds such a limit (**Article 58 of Regulation No. 1 of 1997**).

## 1.3. Marine protected areas

**Law No. 7875 of 23 November 1994** on the protection of wildlife and hunting provides for establishing fauna and natural reserves which can be located either on land or in internal waters. Lagoons that connect with the sea may be classified as fauna or national reserves. Reserves are designed to ensure the integral protection of the wildlife and ecosystems therein<sup>27</sup>.

## 1.4. Comments

Albanian fisheries legislation provides a wide range of conservation and management measures that combine technical, input control and catch control measures, and that is generally satisfactory. The effectiveness of these measures is,

<sup>27</sup> Law No. 7623 of 13 October 1992 on the Forestry and Forest Police Service and Regulation No. 577 of 8 February 1993 defining national parks, wildlife reserves and protected areas also provide for the establishment of protected areas. Based on the information available, it could not be determined whether these two pieces of legislation can be used for the protection of marine areas.

however, undermined by the widespread illegal fishing activities perpetrated by unauthorized fishing vessels.

## 2. ALGERIA

Algerian fishing law is essentially based on **Law No. 1-11 of 3 July 2001 concerning fishing and fish farming**<sup>28</sup>, which has become the basic law, repealing all provisions that run contrary to the present law except those provisions in Article 6 of **Legislative Decree No. 94-13 of 28 May 1994 laying down the general rules on fishing**<sup>29</sup>.

This law is also based on the fishing regulations contained in **Executive Decree No. 96-121 of 6 April 1996**<sup>30</sup> and **Executive Decree No. 95-38 of 28 January 1995**<sup>31</sup> governing the fishing of highly migratory species by foreign fishing vessels in waters under national jurisdiction.

### 2.1. Licensing

**Law No. 1-11 of 3 July 2001** establishes a licensing system applicable to all fishing activities taking place within waters under national jurisdiction. It thus covers all forms of fishing, whether using a vessel or not. The term “waters under national jurisdiction” should be used, being wider than the term “territorial waters”, which refers exclusively to waters under national sovereignty. While the latter designates the 12-nautical mile area off the Algerian coasts<sup>32</sup>, the former embraces all waters under national jurisdiction, including internal waters, territorial waters and the waters of the fishing zones. The fishing zone (*zone de pêche réservée*), which is an area located beyond and adjacent to the territorial waters, extends over a width of 32 nautical miles between the western maritime boundary and Ras Ténès and 52 nautical miles between Ras Ténès and the eastern maritime boundary (**Article 6 of Legislative Decree No. 94-13 of 28 May 1994**) By proclaiming a fishing zone, Algeria intends to extend its sovereign rights over fishing resources, including highly migratory species within this area.

Any person wishing to use a vessel registered in Algeria to fish outside waters under national jurisdiction must first obtain a permit to do so. As a general rule, foreign fishing vessels are not allowed to operate in waters under national jurisdiction (Article 22 of the Law). However, temporary permits may be granted to such vessels for the

<sup>28</sup> Law No. 1-11 of 3 July 2001 concerning fishing and fish farming (Official Gazette (JO) of the Algerian Republic, No. 36, 8 July 2001).

<sup>29</sup> Legislative Decree No. 94-13 of 28 May 1994 setting out general rules on fishing (JO No. 40, 22 June 1994).

<sup>30</sup> Executive Decree No. 96-121 of 6 April 1996 setting out the conditions and modes of fishing (JO No. 22, 10 April 1996).

<sup>31</sup> Executive Decree No. 95-38 of 28 January 1995 setting out the conditions and modes of commercial fishing of highly migratory halieutic species by foreign vessels in waters under national jurisdiction (JO No. 6, 8 February 1995).

<sup>32</sup> Decree No. 63-403 of 12 October 1963 stipulates that territorial waters extend out to a width of 12 nautical miles (JO No. 76, 15 October 1963).

purposes of scientific research. Likewise, commercial fishing licences may be issued to foreign fishing vessels targeting highly migratory species passing through this area (Article 24 of the Law). Unauthorized foreign fishing vessels may proceed through this zone under national jurisdiction provided that their fishing gear conforms to the regulations enacted by the legislation in force (Article 25 of the Law).

Fishing for sport is subject to a special permit delivered in conformity with the law in force (**Article 45 of Executive Decree No. 96-121 of 6 April 1996** setting out conditions and modes for fishing activities).

## 2.2. Conservation and management measures

Catching, rearing, handling, converting, distributing and marketing the products of fishing and fish farming are carried on within the context of the sustainable use of biological resources with a view particularly to preventing the effects of overuse, protecting biological diversity, and forestalling and reducing wastage of biological resources by the use of selective gear or techniques (Article 13 of the Law).

Fishing zones are managed within the context of the sustainable use of biological resources (Article 19 of the Law).

### 2.2.1. Commercial fishing

This part is divided into two subsections so as to clearly identify those regulations which apply to national fishing vessels and those which apply to foreign fishing vessels authorized to fish in waters under national jurisdiction to catch highly migratory species.

## Regulations which apply to national fishing vessels

### 2.2.1.1. Fishing zones

**Law No. 1-11 of 3 July 2001** establishes three (3) fishing zones in waters placed under national jurisdiction: the coastal fishing area, the offshore fishing area, and the high sea fishing area (*zone de grande pêche*) (Article 17) and defines the class of ship authorized to operate there (Articles 33, 34 and 35). Class of vessel and size of these zones are also defined in **Decree No. 96-121 of 6 April 1996**. Vessels of under 50 tons are authorized to fish in the coastal fishing area, which extends 3 nautical miles outward from the coastline. Vessels of under 120 tons are authorized to fish in the offshore fishing area, located beyond the coastal fishing area and extending to the outer limit of the territorial waters (12 nautical miles). The high sea fishing area (*zone de grande pêche*) lies beyond the offshore fishing area. Though its outer limit is not determined, it would seem that this zone coincides with the fishing zone established in **Article 6 of Legislative Decree No. 94-13 of 28 May 1994** and thus extends accordingly (Article 4).

### 2.2.1.2. Fishing gear

**Law No. 1-11 of 3 July** requires that two separate lists of fishing gear be established. One must define the type of fishing gear that is subject to authorization (Article 49), the other must determine the fishing gear the importing, manufacturing, possession and sale of which is prohibited (Article 51).

The characteristic features of nets and conditions of their use are regulated by **Executive Decree No. 96-121 of 6 April 1996**. Nets are classed in three distinct categories: fixed nets, drift-nets and trawl-nets. Fixed nets can be used at any time provided that they are set within at least 500 metres of the shore or a port or mooring area. Their mesh size must not be less than 24 mm (Article 24). Use of drift-nets is strictly prohibited within the coastal fishing area. Their mesh size must not be less than 130 mm (Article 25). Trawling is prohibited at depths of less than 50 metres and in areas mentioned in Article 27 regardless of their depth. However, specific regulations apply to the gulfs of Béjaia and Annaba, where trawling is authorized at depths greater than 40 metres between Sidi Abkou and Ras Bougarouni and everywhere in specified areas (Article 28). The minimum authorized mesh size is 40 mm for bottom trawls (Article 30), 20 mm for semi-pelagic and midwater trawls, and 20 mm for shrimp trawls (Article 31). Use of trawl nets fitted with a double bag is strictly prohibited (Articles 30 and 31).

Fishing activities for sport include fishing from the shore, underwater fishing and fishing from a pleasure boat (**Article 42 of the Decree and Article 27 of Law No. 1-11 of 2001**). Only hooks and lines are authorized for the last case. It is further specified that fewer than 10 hooks must be fitted on each line (Article 46).

Finally, it should be noted that the Ministry responsible for fishing is authorized to restrict or prohibit the use of any fishing gear (Article 38).

Furthermore, **Law No. 1-11 of 3 July 2001** stipulates that coral fishing must be carried on rationally using suitable diving equipment systems.

### 2.2.1.3. Closed areas

Fishing is prohibited in protected areas, ports, mooring areas and in the vicinity of industrial or military zones (**Article 37 of Executive Decree No. 96-121 of 6 April 1996**).

### 2.2.1.4. Minimum fish size

It is forbidden to catch, possess, store, transport, process or sell species or fishing products that have not yet reached the prescribed market size, or whose catch is expressly prohibited. Consequently, all immature species caught must be immediately returned to their natural environment. However, a proportion of immature species, up to 20% of total catch, is tolerated when caught by non-selective gear (**Article 53 of Law No. 1-11 of 3 July 2001**).

### 2.2.1.5. Fishing methods

Fishing and fish farming by whatever method may be restricted or forbidden as regards both time and place every time it is recognized that it is necessary to ban or restrict it (Article 55 of the Law).

### 2.2.1.6. Fishing capacity

The acquisition, sale or transfer of ownership of fishing vessels is subject to the fishing administration's approval. Likewise, no construction or modification aiming at altering the structure of any fishing vessel can be undertaken without the competent authority's prior approval (**Articles 45, 46 and 47 of the Law**).

### Regulations governing the fishing of highly migratory species

In 1995, Algeria adopted a series of regulations governing the fishing of highly migratory species by foreign fishing vessels within waters under national jurisdiction.

**Executive Decree No. 95-38 of 28 January 1995** stipulates that, for the purpose of this Decree, six species fall into the category of highly migratory species, namely: *Thunnus thynnus*, skipjack (*Katsuwornus palamis*), *Sarda sarda*, *Euthynnus alletteratus*, *Auxis spp.* and swordfish (*Xiphias gladius*).

It reiterates the need for foreign fishing vessels to be properly licensed to participate in this sort of fishing and specifies that no fishing permit will be delivered without having first been approved by the Minister of National Defence (Article 3). Highly migratory species must be fished beyond the six-nautical-mile area measured from the baselines (Articles 4 and 34 of the Law).

Purse seining and longlining are the only two fishing methods that can legally be used to catch highly migratory species in waters under Algerian jurisdiction (Article 5).

An individual quota system is established even if no vessel may catch over 500 tons of highly migratory species annually (Article 8). Fishing permits are valid for one fishing trip only (Article 7).

Two observers appointed by the fishing administration and the coastguards are put on board foreign fishing vessels (Article 13). The captain of the foreign fishing vessel must keep a logbook in which fishing information relating to, *inter alia*, date, place, species and quantity of catch is recorded daily (Article 19). In addition, at the end of the fishing trip, the captain is required to report catch and scientific data as specified in the form annexed to the Executive Decree (Article 17).

The **Ministerial Order of 9 March 1995**<sup>33</sup> restricts the minimum market size of highly migratory species as follows:

Species	Minimum market size (cm)
<i>Thunnus thynnus</i>	70
<i>Euthynnus alletteratus</i>	40
<i>Katsuwornus palamis</i> (skipjack)	35
<i>Sarda sarda</i>	35
<i>Auxis spp.</i>	22
<i>Xiphias gladius</i> (swordfish)	120

Another **Ministerial Order of 9 March 1995**<sup>34</sup> establishes a two-month closed season from June 1 to July 31 each year.

### 2.3. Marine protected areas

**Law No. 83-03 of 5 February 1983**<sup>35</sup> on the protection of the environment provides for establishing protected areas, national parks and nature reserves, which may include areas of water placed under national jurisdiction (Article 17). Marine areas may thus become part of national parks or nature reserves if they are an extension of land-based protected areas.

In order to ensure proper protection of biodiversity, wild animal species may be listed as protected species. A list of animal species requiring special protection is established on the basis of a report drawn up by the Ministry responsible for protecting the environment and may include species of fish and marine mammals (Articles 10 and 11).

Two of the four existing protected areas located on the 1,200 kilometres of coast include marine protected areas. The most important is El Kala National Park established by **Decree No. 83-462 of 23 July 1983**. The other is the Réghaia Nature Reserve.

It should be noted that the Ministry for Land Use Planning and the Environment has started the procedure of listing the Habibas Islands (wilaya of Oran) as nature reserves in conformity with **Decree No. 87-143 of 16 June 1983** setting out the rules and modes of listing national parks and nature reserves.

<sup>33</sup> Ministerial Order of 9 March 1995 setting out market size of highly migratory halieutic species (JO No. 19, 12 April 1995).

<sup>34</sup> Decree of 9 March 1995 ordering the opening and closing dates for the commercial fishing of highly migratory halieutic species in waters under national jurisdiction (JO No. 18, 5 April 1995).

<sup>35</sup> JO No. 6, 8 February 1983.

## 2.4. Comments and recommendations

While Algerian fishing law combines a wide range of conservation and management measures that appears as a whole to be satisfactory, there are nonetheless some specific issues that need to be either reviewed or developed further.

Managers of Algerian fisheries rely heavily on area restrictions whereby access to specific fishing zones is restricted to certain parts of the fishing fleet (traditional, industrial and foreign fleets). In this respect, it should be emphasised that there is a lack of consistency and clarity in the terminology used to designate the area lying beyond the territorial waters. While Algeria has declared a fishing zone beyond the territorial waters, no use of this terminology is made in the laws and regulations<sup>36</sup> following on this. By introducing the idea of a *zone de grande pêche* without properly defining it<sup>37</sup>, the law has added to the confusion<sup>38</sup>. It is therefore recommended that definitions of these fishing zones be carefully reviewed in order to give fishing law back its consistency.

Whereas the procedures and conditions defining the use of fishing permits have been determined for foreign fishing vessels<sup>39</sup>, it appears that no such provisions have been elaborated as regards national fishing vessels. It is recommended that similar provisions be adopted for Algerian fishing vessels.

Whereas foreign fishing vessels are required to report catch data and other information about their fishing activities through, *inter alia*, a logbook kept up to date, national fishing vessels are not subject to such an obligation. Without any data on the fishing activities of Algerian fishing vessels, which represent the bulk of the fishing fleet operating in Algerian waters, it might be difficult for the fisheries management authority to assess correctly the stocks encountered therein. Lack of sufficient, reliable data could in turn affect its capacity to design sound conservation and management measures. In particular, it may impair its ability to determine the annual level of exploitation that can be sustained in Algerian waters. It is recommended, taking into account the various classes of vessels, that national fishing vessels be subject to reporting requirements.

Insofar as could be established, regulations governing the activities of fishing for sport are restricted to those involving the use of a boat. Boats must be properly licensed and fishing gear used be subject to certain restrictions. However, other forms of fishing for sport such as fishing from the shore and underwater fishing remain unregulated. It is recommended that the regulations on fishing for sport be widened to include fishing

<sup>36</sup> Article 4 of Executive Decree No. 95-38 of 28 January stipulates that 'catch of highly migratory species must take place in the marine zone localised beyond the six-nautical-mile area measured from the baseline', whereas the interpretation of this phrase seems to indicate that this zone extends from six nautical miles outwards to the outer limit of the fishing zone, with no reference to this latter.

<sup>37</sup> No definition of the meaning of *grande pêche* is provided in the law.

<sup>38</sup> Indeed, it seems that both the fishing area and the *zone de grande pêche* refer to the same marine area, despite the fact that the outer limit of the *zone de grande pêche* is not specified.

<sup>39</sup> See Section II of Executive Decree No. 95-38 of 1995.

from the shore and underwater fishing. In addition, introduction of daily catch limits may need to be considered.

### 3. BOSNIA AND HERZEGOVINA

**B**osnia and Herzegovina enjoys a narrow access (about 25 km) to the Adriatic Sea in the Neretvanski Kanal, whose geographical features do not allow the country to declare a full-fledged territorial sea. As of 19 November 1999, this country had not claimed any maritime zones<sup>40</sup>. Under such circumstances, it is not surprising that no basic marine fisheries legislation has yet been enacted in Bosnia and Herzegovina. Moreover, it seems that, based on the available information, no legislation providing for the establishment of marine protected areas has been enacted.

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<sup>40</sup> The United Nations database summarizing national claims to maritime zones, which was consulted on 6 August 2000, does not record any maritime claims with regard to Bosnia and Herzegovina ([www.un.org](http://www.un.org)).

## 4. CROATIA<sup>41</sup>

Since becoming independent in 1991, Croatia has claimed maritime zones and adopted basic fisheries legislation as well as a series of regulations governing various aspects of both artisanal and commercial fishing.

### 4.1. Licensing

The **Marine Fisheries Act of 22 April 1997**<sup>42</sup> establishes a permit system applicable to both commercial and artisanal fishing operations. It prescribes the requirements to be met to obtain both commercial and artisanal fishing permits and specifies the conditions attached to such permits. Sport and recreational fishing activities are also subject to authorization. Permits for such activities may be issued for periods of 1 day, 3 days, 1 week or 1 month (**Regulation of 10 December 1997** establishing permit fees for sport and recreational fishing<sup>43</sup>).

The **Regulation of 11 February 1997** amending the Regulation on equipment in artisanal fishing<sup>44</sup> provides that a fishing permit is not required for every fishing vessel involved in artisanal fishing, since one artisanal fishing permit may cover two separate fishing vessels.

### 4.2. Conservation and management measures

#### 4.2.1. Fishing gear

The **Ordinance of 5 June 1996 on equipment in commercial fishing**<sup>45</sup> sets out the list of authorized fishing gear and equipment that can be used for commercial fishing operations. This text was amended by a 1997 Ordinance<sup>46</sup> that stated that no more than 500 hooks should be fitted on every longline.

Likewise, a **Regulation on equipment in artisanal fishing**<sup>47</sup> was adopted on **15 October 1996** to establish the list of fishing gear and equipment that can lawfully be used in artisanal fishing operations and determine their use and specifications.

<sup>41</sup> The analysis of the Croatian legal framework included in this study relies exclusively on the abstracts of laws and regulations contained in FAOLEX.

<sup>42</sup> *Narodne Novine* No. 46 of 5 May 1997.

<sup>43</sup> *Narodne Novine* No. 136 of 16 December 1997.

<sup>44</sup> *Narodne Novine* No. 30 of 19 April 1997.

<sup>45</sup> *Narodne Novine* No. 46 of 12 June 1996.

<sup>46</sup> Ordinance of 13 October 1997 amending the Ordinance on equipment in commercial fishing (*Narodne Novine* No. 118 of 5 November 1997).

<sup>47</sup> *Narodne Novine* No. 89 of 15 October 1996.

Included in this list are the following gear: fixed nets, traps, harpoons and dragnets. Artificial light should only be used where fishing with harpoons or hooks and lines.

Specific regulations governing the use of fixed nets and trawl nets were adopted in 1997. The **Regulation of 16 April 1997 governing the use of fixed nets**<sup>48</sup> determines the various kinds of fixed net that can be used in Croatian waters and sets out their specifications. It also prescribes time and area restrictions for their use. In this regard, the closed season for fixed net fishing runs from 31 June to 31 August each year<sup>49</sup>. Furthermore, it regulates the use of artificial light in relation to the various types of fixed net.

The **Regulation of 1 July 1997 on trawling**<sup>50</sup> establishes trawl nets' specifications, prescribes the conditions for their use and determines the fishing areas where trawling is permitted.

#### 4.2.2. Protected species

Crayfish and sea cucumbers are given special protection. The **Regulation of 20 April 1998 on sea cucumber protection**<sup>51</sup> prohibits the taking of the following species of sea cucumber: *Holothuriidae*, *Stichopodidae*, *Cucumariidae*, *Sclerodactylidae*, *Phyllophoridae*, *Synaptidae* and *Myriotrochidae*. Likewise, the taking of the following species of crayfish is not allowed within Croatian waters: *Astacus astacus*, *Austropotamobius torrentium*, *Austropotamobius pallipes* (**Regulation of 20 April 1998 on crayfish protection**<sup>52</sup>).

#### 4.2.3. Minimum fish size

The **Ordinance of 5 June 1996 on the protection of fish and other aquatic species**<sup>53</sup> establishes a minimum legal size for various species of fish and other aquatic organisms and sets out closed seasons for certain species of fish.

### 4.3. Marine protected areas

Prior to becoming independent the Republic of Croatia, then a Yugoslav Republic, had established three national parks including marine areas, and two special marine reserves, namely, the Brioni Island National Park, the Kornati Islands National Park, the Mljet National Park, the Limski Zaljev Special Marine Reserve and the Malostonski Zaljev Special Marine Reserve<sup>54</sup>.

<sup>48</sup> *Narodne Novine* No. 43 of 23 April 1997.

<sup>49</sup> Regulation of 3 June 1997 amending the Regulation of 16 April 1997 on fish net fishing.

<sup>50</sup> *Narodne Novine* No. 69 of 4 July 1997.

<sup>51</sup> *Narodne Novine* No. 76 of 29 May 1998.

<sup>52</sup> *Narodne Novine* No. 76 of 29 May 1998.

<sup>53</sup> *Narodne Novine* No. 46 of 12 June 1996.

<sup>54</sup> The legal basis for the creation of marine protected areas in the waters of the independent Republic of Croatia has not been identified.

The Brioni Island National Park was created in 1983. It covers a total surface of approximately 3,635 hectares of which 2,635 hectares are marine waters. Underwater fishing is strictly prohibited therein.

The Kornati Islands National Park, established in 1980, covers a total surface of about 22,375 hectares consisting of about 140 islands, islets and reefs. The 17,307-hectare marine area hosts numerous species of pelagic fish, including *Murena helena*, *Dentex dentex* and *Palinurus Vulgaris*. Commercial and sport fishing activities are allowed under certain conditions in specific zones.

**Law No. 49/60 of 1960** proclaims the northwest part of the Mljet Island as a national park. This park covers a total surface of about 4,619 hectares of which 1,519 hectares are marine waters. The marine fauna is abundant and includes *Palinurus Vulgaris*, *Dentex dentex*, *Scorpaena*, *Coveria nigra* and *Zeus faber*. The marine area is divided into two zones, an integral marine reserve and a controlled reserve. While no commercial fishing is allowed in either of them, local fishing is permitted in the latter.

The Limski Zaljev Special Marine Reserve was established in 1979 and covers a surface of approximately 500 hectares. Species of fish commonly found therein are: grey mullet (*Mugillidae*), bogue (*Boops boops*) and goldin (*Salpa salpa*). Fishing is strictly regulated throughout the reserve.

The Malostonski Zaljev Marine Reserve was proclaimed by Decree No. 3 of 21 April 1983. The 5,568-hectare marine reserve claims an abundant marine fauna such as striped mullet (*Mullus barbetus*) and pandora (*Pagellus erythrinus*). The reserve is an important breeding ground. It is divided into two zones. While fishing is strictly prohibited in one zone of the reserve (integral protection), it is permitted in the other, except for spear fishing.

#### 4.4. Comments

Considering the number and scope of the regulations that were adopted in the past decade, one might think that Croatian fisheries legislation was globally satisfactory. Having said that, it should be emphasized, however, that the author was unable to establish whether or not key issues such as the licensing of Croatian fishing vessels operating outside national waters, incidental catch, fishing effort, fishing capacity and catch reporting were addressed under the existing fisheries legislation.

## 5. CYPRUS

**T**he Law on Fisheries (Cap. 135 and Laws of 1961 to 1990): Regulation of fishing in the internal waters and territorial sea of the Republic of Cyprus is established by the Law on Fisheries CAP 135 of 1990 and by the Regulations adopted in conformity with Section 6 of this Law.

Exercising the powers attributed to it by Section 6 of the Law on Fisheries, the Ministerial Council introduced the 1990 Regulations on fisheries. After defining the technical terms used, these Regulations set out rules on fishing in the territorial waters or in the internal waters of the Republic, developing and clarifying the principles contained in the Law. These rules concern:

- procedures and conditions for delivering fishing permits
- restrictions on use of certain fishing methods
- restrictions concerning the protection of certain areas
- conditions for use of fishing nets
- restrictions on dates and hours of fishing
- monitoring by the Director of the fishing department of the activities of fishing vessels
- conditions and restrictions as to catch
- a ban on the discharge and introduction into sea water of pollutant substances
- a ban on importing and introducing into the internal waters living fish or fish eggs without permission from the Director of the fishing department
- certain fishing being subject to authorization or licence: fishing with lights, with diving-suits, and with spear guns
- the operating of fishing establishments being subject to a special licence
- restricting trawling and swordfish fishing at certain periods, certain times and certain depths
- restricting trawlers' movements
- fishing outside territorial waters being subject to the system of licences for unloading catch.

### 5.1. Licensing

To carry on fishing activities, all fishing vessels are subject to their captain or owner gaining a fishing licence, which must be kept on board and presented at every requisition by the police or by fishing department agents.

The delivering of fishing licences is decided by the Director of the fishing department, according to a policy established by the Fisheries Advisory Committee. This Committee, an advisory body existing alongside the Minister of Agriculture and Natural Resources, and chaired by the Director of the fishing department, is made up of six members appointed by the above-mentioned Minister, three of these members representing the basic fisheries sectors. Furthermore, an appeal against the decision of

the Director of the fishing department as regards the delivering of fishing licences can be made to the Minister of Agriculture and Natural Resources.

The number of fishing licences to be delivered each year is restricted to twelve for trawlers, sixty for swordfishing and five hundred for other vessels using other fishing methods. But the Director of the fishing department may at any time restrict the number of fishing licences, and also the quantity, size and type of nets or lines used by each fishing vessel. In any case, trawlers which possess motors of over 250 HP may not obtain a fishing licence.

For swordfish fishing, vessels of less than nine metres and which are not provided with a radio-telephone (VHF) may not obtain a fishing licence.

## **5.2. Conservation and management measures**

### **5.2.1. Conditions and restrictions regarding the catching of certain protected species**

It is forbidden to fish, pursue, sell or buy or even possess certain species such as turtles, seals, dolphins or their eggs, except for those holding a special permit.

### **5.2.2. Restrictions concerning the protection of certain areas**

Between June 1 and September 30 of each year it is forbidden to fish in certain areas, such as the Lara marine area or in the area lying between the site known as Aspros and that known as Argaki tou Yiousoufi.

### **5.2.3. Conditions for the use of fishing nets**

Monofilament nets are forbidden. The use of fishing nets is strictly regulated as regards size, especially minimum mesh size. The use of any net for fishing is forbidden unless this net is made as follows:

- nets whose minimum mesh size (except that of the pouches of the nets) is not less than twenty-five (25) millimeters
- the minimum size of the pouches of the nets is not less than thirty-four (34) millimeters
- the minimum length of the pouch of the net is not less than five (5) metres starting from the place where it is attached to the rest of the net and up to the first point where it is joined to the back of the pouch.

In any case, the minimum mesh size of each net (except for trawlers' nets) used by any method for the purpose of fishing may not be less than thirty-two (32) millimetres.

#### **5.2.4. Monitoring by the Director of the fishing department of the activities of fishing vessels**

To allow the Director of the fishing department to carry out the monitoring necessary for rational management of marine resources, the captain or owner of any vessel which has been granted a fishing licence is obliged to provide the Director of the fishing department, at the time or in the manner the Director deems necessary, with all the facts concerning its activities and the catch of the above-mentioned vessel.

#### **5.2.5. Kinds of fishing subject to authorization or licencing**

Fishing with lights, with diving-suits, and with spear guns is forbidden unless permission has been given in writing by the Director of the fishing department.

#### **5.2.6. The operating of fish-breeding establishments is subject to special licencing**

This licence, delivered by the Director of the fishing department, is valid for five years and afterwards is renewable every year. On each licence may appear all the conditions the Director of the fishing department deems necessary to place on the setting up or operating of a fish-breeding establishment.

#### **Restricting trawling and swordfish fishing to certain periods, times and depths:**

Trawling in territorial waters is forbidden between 1 June and 7 November of each year, and at any place in the sea where the depth of the water is less than thirty fathoms, and at any time of day or period which is not clearly stated in the fishing licence delivered in conformity with the regulations.

Also forbidden is swordfish fishing, with any vessel, in the territorial waters of the Republic during the period starting 1 October of each year and ending on the last day of February of the following year.

#### **Restricting the movements of trawlers:**

Even after obtaining the written permission of the Director of the fishing department, and even if all the conditions he may require in this licence are satisfied, no trawler may at any time leave the port in which it has been berthed to go to another place in the Republic, or, during the period when trawling is banned in the territorial waters of the Republic, leave the territorial waters of the Republic to fish and then reenter its waters.

#### **Fishing outside territorial waters is subject to the licencing system for unloading catch:**

It is forbidden for a fishing vessel which fishes outside the territorial waters to unload its catch in the Republic, unless a written, annual licence has previously been

delivered by the Director of the fishing department to this effect, and provided all the conditions set out in this licence are satisfied. In this respect, the Director of the fishing department is allowed to restrict the number of licences he delivers each year to this effect, as regards vessels which trawl or vessels which fish for swordfish.

### 5.3. Marine protected areas

The Lara-Toxeftra nature management reserve, located to the south-west of the Akamas peninsula, was set up in July 1990 on the basis of the 1989 fishing law. It was specifically created to protect the egg-laying areas of the remaining *Chelonia mydas* green turtle populations and *Caretta caretta* loggerhead turtle populations.

### 5.4. Comments

The regulating of fishing activities under the Law and Regulations of 1990 seems sufficiently broad to cover most of the aspects which affect the protection of marine ecosystems and non-target species. From this point of view it is certain that the various restrictions and monitoring placed on vessels, fishing methods, periods, and effects on the marine environment can only help minimize the impact of fishing on marine ecosystems and on the protection of certain species. However, it is uncertain whether foreign fishing vessels are or are not entitled to fish in Cyprus's internal waters and in Cyprus's territorial waters, even if they must respect the regulations mentioned above.

## 6. EGYPT

The main Egyptian fisheries legislation is **Act No. 124 of 18 August 1983 on fishing, aquatic life and fish farming**<sup>55</sup>. Since then it seems, based on the information available, that no major fisheries regulations have been adopted to implement this Act. Implementation of **Act No. 124 of 1983** has been activated through the issuance of **Ministerial Decree (Order) No. 303 of 1987** for its executive regulations, ensuring that the above-mentioned Act is comprehensively applied. Presidential Decree No. 190 of 1983 is specific as to the formation of a General Authority for Fish Resources Development. **Act No. 465 of 1983** specifies the territories that fall within the Authority's jurisdiction, enabling it to regulate fishing activities in terms of development, enforcement of regulatory laws, and the governing of time and area restrictions adopted yearly.

In addition, measures governing time and area restrictions are introduced every year through the adopting of resolutions.

### 6.1. Licensing

**Act No. 124 of 18 August 1983** requires that all fishing vessels operating within Egyptian territorial waters be properly licensed. In order to be eligible to apply for such a license, fishing vessels must have acquired a safety certificate issued by the competent maritime authority (Article 30). Areas in which, and fishing gear with which, the vessel is authorized to fish must appear on the license (Article 31). Non-compliance with such conditions may cause the license to be suspended for a six-month period. Subsequent violations may trigger the revocation of the license (Article 24). The license is valid for one calendar year. It is not transferable unless authorized by the fisheries management authority (Article 28).

Foreign fishing vessels must not fish within Egyptian territorial waters (Article 25).

Individual fishermen are not authorized to engage in fishing unless they hold a fishing card (Article 23).

The taking of aquarium fish is prohibited except by authorization of the fisheries management authority (Article 11).

Collecting of fish fry is subject to the issuance of a permit by the fisheries management authority (Article 19).

<sup>55</sup> It repeals Act No. 144 of 1960 on fishing.

The Minister responsible for fisheries is authorized to regulate sport fishing activities and in particular to prescribe the conditions that govern the use of sport fishing licenses (Article 65.11).

## 6.2. Conservation and management measures

In addition to the above mentioned **Act No. 124 of 18 August 1983, Decree No 174 of 1989** on fishing methods and regulatory resolutions adopted periodically provides a framework for regulating fishing activities.

### 6.2.1. Power to make regulations

The Minister responsible for fisheries is vested with extensive regulatory powers enabling him/her to regulate fishing activities throughout Egypt's territorial waters (**Article 65 of Act No. 124 of 1983**).

### 6.2.2. Prohibited fishing methods

The use for fishing purposes of any explosive, or poisonous or noxious substances, is strictly prohibited throughout Egypt's territorial waters (**Article 13 of Act No. 124 of 1983**).

**Decree No 174 of 1989** specifies fishing net requirements in terms of length and mesh size and fishing methods.

### 6.2.3. Fishing capacity

Modification of a vessel's fishing capacity through the increase or decrease of engine power is subject to authorization by the fisheries management authority (**Article 46 of Act No. 124 of 1983**).

### 6.2.4. Fishing effort

**The Act of 1983** empowers the Minister responsible for fisheries to prescribe the number of fishing licenses to be issued in respect of every class of vessel and fishing area (**Articles 23 and 65.8 of Act No. 124 of 1983**).

### 6.2.5. Fishing areas

A vessel should not be transferred from one fishing area to another without having been authorized to do so by the fisheries management authority. This measure is designed to control the level of the fishing effort that can be sustained in each fishing area (**Article 45 of Act No. 124 of 1983**). Trawlers licensed to fish in the Gulf of Suez and the Red Sea are not allowed to operate in the Mediterranean Sea (**Article 3 of Resolution No. 376 of 2000**).

## Area restrictions

The use of nets is not permitted within port areas. In order to protect the sponge fishery, trawling in the Mediterranean Sea is prohibited in an area extending from Tabiet-e-Ada to the eastern maritime boundary and within an area 1.5 miles wide extending from Tabiet-e-Ada to the western maritime boundary (**Article 16 of Ministerial Order No. 667 of 1961**).

**Decree No 174 of 1989** specifies area restrictions.

### 6.2.6. Time restrictions

For the year 2000, the following time restrictions applied in the Mediterranean Sea (**Resolution No. 376 of 28 March 2000**):

- use of nets, including trawl nets, is prohibited from 1 April to 15 May except for *chinchilla* nets that can be used at night time (Article 1)
- use of fishing rods is allowed from 1 April to 15 May in the area extending from Rashid and Salloum (Article 2).

### 6.2.7. Data reporting

Every individual fisherman or master of a fishing vessel is required to submit data relating to fishing operations (**Article 22 of Act No. 124 of 1983**).

## 6.3. Protected areas

**Law No. 102 of 20 July 1983** provides the legal basis for establishing and managing nature reserves and national parks in Egypt. A natural protected area is defined as any area of land, or coastal or inland water characterized by flora, fauna, and natural features that is of cultural, scientific, touristic or esthetic value. These natural protected areas are created by a Prime Ministerial Decree upon recommendation by the Egyptian Environmental Affairs Agency.

So far, no marine protected area has been created in Egyptian waters in the Mediterranean. Three protected areas have been created along the coast (Zaranik, Omajed and Brullus).

## 6.4. Comments

**Act No. 124 of 1983** does not address the issue of Egyptian fishing vessels operating outside Egyptian waters. Thus, the licensing of Egyptian vessels intended to be used for fishing on the high seas or in the waters of a third country is not required. Even if at present most domestic Egyptian vessels do not have the capacity to fish on the high seas, it is recommended that **Act No. 124 of 1983** be amended to provide for

the regulating of Egyptian vessels to be used for fishing on the high seas or in waters under the jurisdiction of a third country.

Insofar as can be established, it seems that sport fishing activities within Egypt's territorial waters are not regulated. It is recommended that measures dealing with sport fishing activities in Egyptian waters located in the Mediterranean be adopted.

If not already provided for, it is recommended that the scope of **Law No. 102 of 1983** be extended to cover marine areas, so as to enable marine protected areas to be established in Egyptian waters located in the Mediterranean Sea.

## 7. EUROPEAN UNION

Of the twenty-one countries covered by this study, four (Italy, Greece, Spain and France) are Member States of the European Union (EU). It is therefore important to include a review of Community fisheries regulations in this study. Although the development of the common fishery policy (CFP) can be traced back as early as 1966, it was not until 1983 that a Community system for the conservation and management of fishery resources was established for a 20-year period<sup>56</sup>. The shortcomings and failures of the CFP, as recognized by the end of the first CFP's ten years, led to it being reformed and to the adoption of **Council Regulation (EEC) No. 3760/92 of 20 December 1992 that** established a Community system for fisheries and aquaculture<sup>57</sup>.

While the EU has general competence in the field of fisheries, **Article 10 of Council Regulation (EEC) No. 3760/92** lays down the rules governing the repartition of powers between the Community and the Member States (residual power) with regard to the taking of measures for the conservation and management of fishery resources. It provides that Member States may adopt such measures in waters under their sovereignty or jurisdiction where:

- they involve strictly local stocks which are only of interest to fishermen from the Member State concerned, or they apply solely to the fishermen from the Member State concerned
- they are compatible with the objectives of the CFP and are no less stringent than the measures governing the conditions of access to waters and resources and of the pursuit of exploitation activities adopted pursuant to Article 4.

Member States are required to inform the Commission of any introduction or amendment of national conservation and resource management measures so that they can be reviewed by the Commission in order to ensure that they are compatible with Community law and conform to the CFP.

Community measures for the conservation and management of fishery resources that were adopted during the first ten years of the CFP did not apply to the waters under the sovereignty or jurisdiction of EU Member States in the Mediterranean. In 1994, the need to remedy the problems affecting fishery resources in the Mediterranean was recognized and led to the adopting of **Council Regulation (EC) No. 1626/94 of 27 June 1994** that laid down certain technical measures for the conservation of fishery resources in the Mediterranean<sup>58</sup>.

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<sup>56</sup> Council Regulation (EEC) No. 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (OJ No. L 24 of 1983, p.1).

<sup>57</sup> Council Regulation (EEC) No. 3760/92 repeals Council Regulation (EEC) No. 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (OJ No. L 389 of 31 December 1992, p.1). It was amended by Regulation (EC) No. 1181/98 of 4 June 1998 (OJ No. L 164 of 9 June 1998, p.1).

<sup>58</sup> OJ No. L 171 of 6 July 1994, p.1.

Under the IFOP regulation (Reg. No 2799/1999), the Multiannual Guidance Programs (MAGPs) set up the fleet policy. Articles 13, 14, 15 and 17 of the IFOP regulation foresee the financing of projects that improve the environment, such as setting up artificial reefs.

## 7.1. Licensing

**Council Regulation (EEC) No. 3760/92 of 20 December 1992** introduces a general Community system of administrative fishing licenses attached to the vessel and issued and managed by Member States. The licensing system applies to all Community fishing vessels operating in the Community fishing waters, including the Mediterranean, or in the waters of a third country or on the high seas (Article 5).

**Council Regulation (EC) No. 3690/93 of 20 December 1993**<sup>59</sup> sets out the rules governing the minimum information that needs to be included in fishing licenses. Pursuant to these rules, flag Member States are required to appoint the competent authority for issuing fishing licenses and to take the appropriate measures to ensure that the system is effective (Article 7). Minimum information to be inscribed on the licenses entails identification of operator (name/s of owner/s, name/s of charterer/s), identification of vessel (name of vessel, nationality, port of registration, registration number, external markings and international radio code) and technical characteristics and equipment of vessel (type of vessel, main type of gear, engine power, length, tonnage)<sup>60</sup>. It is the duty of the flag Member State to ensure that the information on identification, technical characteristics and equipment of each vessel flying its flag is accurate (Article 4).

Pursuant to Article 1 of **Council Regulation (EC) No. 1627/94 of 27 June 1994** laying down the general provisions concerning special fishing permits<sup>61</sup>, all properly licensed Community fishing vessels intending to engage in fishing activities subject to Community measures in respect of access to waters and specific fishery resources must first be granted a special fishing permit. As a supplement to the fishing license, such a permit enables the vessel for which it is issued to carry on fishing activities during a specified period, in a given area, for a given fishery in accordance with the measures adopted by the Council (Article 2). Such a requirement also applies to fishing vessels that fly the flag of a third country and operate in Community waters within the framework of a fisheries agreement. While a special fishing permit is valid for one vessel only, the same vessel is authorized to hold several different special fishing permits (Article 6).

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<sup>59</sup> Council Regulation (EC) 3690/93 of 20 December 1993 establishing a Community system laying down rules for the minimum information to be contained in fishing licenses (OJ No. L 341 of 31 December 1993, p. 93).

<sup>60</sup> Details appear in the Annex.

<sup>61</sup> OJ No. L171 of 6 July 1994, p. 7. This Council Regulation was implemented by Commission Regulation (EC) No. 2943/95 of 20 December 1995 (OJ No. L 308 of 21 December 1995, p. 15).

## 7.2. Conservation and management measures

### 7.2.1. TAC and quotas

Pursuant to **Article 8 of Council Regulation (EEC) No. 3760/92**, the Council is required to establish for each fishery or group of fisheries, on a case-by-case basis, the total allowable catch to be allocated to Member States and determine the conditions for adjusting these TACs from one year to the next.

**Council Regulation (EC) No. 847/96 of 6 May 1996**, introducing additional conditions for year-to-year management of TACs and quotas<sup>62</sup>, provides for establishing two types of TAC, namely *analytical TACs* and *precautionary TACs*. *Analytical TACs* are those set for stocks which are subject to a full scientific assessment followed by a catch forecast under various management scenarios<sup>63</sup>. By contrast, *precautionary TACs* are those set for stocks for which no scientifically-based evaluation of fishing possibilities is available (Article 1). When fixing TACs in accordance with **Article 8 of Council Regulation (EEC) No. 3760/92**, the Council must decide which stocks are subject to a precautionary TAC and which stocks are subject to an analytical TAC, on the basis of the scientific information available (Article 2). Catches of up to 5% in excess of permitted landings<sup>64</sup> for any given stock are tolerated and thus do not constitute a violation of Community law (Article 4). However, all catches in excess of permitted landings should be deducted from the quotas set for the same stock in the following year (Article 5).

It should be noted that the Community TAC and quota system did not apply to the Mediterranean until 1998 when, following the recommendations made by the ICCAT and GFCM, the Community set quotas for the bluefin tuna (*Thunnus thynnus*) in the eastern Atlantic and the Mediterranean by adopting **Council Regulation (EC) No. 49/199 of 18 December 1998**<sup>65</sup>. This Regulation establishes, for certain stocks of highly migratory species of fish, the TACs for each stock, the share of this catch available to the Community, the allocation of that share among Member States in the form of quotas, and the specific terms and conditions under which these stocks may be fished. With regard to bluefin tuna (*Thunnus thynnus*), the percentages allocated to Member States from the share available to the Community in the Eastern Atlantic and the Mediterranean are as broken down follows:

<sup>62</sup> OJ No. L 115 of 9 May 1996, p. 3.

<sup>63</sup> See *Report from the Commission to the Council and the European Parliament on the application of the Community system for fisheries and aquaculture in 1996-1998*, COM (2000) 15, 24 January 2000, p.8.

<sup>64</sup> The term *permitted landings* means the quota allocated to a given Member State for a given stock (Article 1).

<sup>65</sup> Council Regulation (EC) No. 49/1999 of 18 December 1998 fixing, for certain stocks of highly migratory fish, the total allowable catches for 1999, their distribution in quotas to Member States and certain conditions under which they may be fished.

Country	Share available (%)	Live weight (tons)
France	33.89	6413
Greece	1.77	126
Italy	26.75	3463
Portugal	3.23	519
Spain	34.35	5555

### 7.2.2. Fishing effort/capacity

In the light of the most recent scientific advice available on the state of the resources accessible to Community vessels, an urgent need to reduce the fishing mortality of certain stocks was recognized. In order to achieve this goal, Member States adopted a Multiannual Guidance Programme that aimed at ensuring a balance between resources and their exploitation through the restructuring of the Community fishing fleet (**Council Decision No. 97/413/EC of 26 June 1997**)<sup>66</sup>. Special programmes designed to reduce the capacity or fishing effort for the fishing fleet of each Member State have been agreed upon on a country-by-country basis<sup>67</sup>.

### 7.2.3. Technical measures

**Council Regulation (EC) No. 1626/94 of 27 June 1994** stipulates that Member States with a Mediterranean coastline may continue to legislate in waters falling under their sovereignty or jurisdiction, by adopting measures supplementary to, or going beyond the minimum requirements of, the system established by this Regulation, provided that such measures are compatible with Community law and in conformity with the CFP. Emphasis is put on the need for Member States to regulate non-commercial fisheries therein (Article 1.2). The main technical measures for the conservation of fishery resources in the Mediterranean laid down in this Regulation are summarized below<sup>68</sup>.

<sup>66</sup> Council Decision No. 97/413/EC of 26 June 1997 concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation.

<sup>67</sup> See Commission Decision No. 98/128/EC of 16 December 1997 approving the multiannual guidance programme for Spain's fishing fleet for the period from 1 January 1997 to 31 December 2001; Commission Decision No. 98/119/EC of 16 December 1997 approving the multiannual guidance programme for France's fishing fleet for the period from 1 January 1997 to 31 December 2001; Commission Decision No. 98/123/EC of 16 December 1997 approving the multiannual guidance programme for Italy's fishing fleet for the period from 1 January 1997 to 31 December 2001; Commission Decision No. 98/127/EC of 16 December 1997 approving the multiannual guidance programme for Greece's fishing fleet for the period from 1 January 1997 to 31 December 2001.

<sup>68</sup> These measures also apply to fishing activities pursued in the Mediterranean outside Member States' waters by Community vessels (Article 1.1).

### 7.2.3.1. Fishing methods

The use for fishing purposes and the keeping on board of toxic, soporific or corrosive substances, of electric shock generators and of explosives is strictly prohibited (Article 2.1).

The use of St Andrew's crosses and similar towed gear for harvesting coral, and of pneumatic hammers or other percussive instruments for the collection of lithophagous mollusks, is forbidden (Article 2.2).

The use of encircling and towed nets set from a boat and operated from the shore (shore seines) must be prohibited as from 1 January 2002, unless it can be clearly established, on the basis of scientific data, that their use does not have a negative impact on resources (Article 2.3).

The use of dredges for catching shellfish is authorized regardless of the distance from the coast and the depth (Article 3.2).

The use of airplanes or helicopters in support of fishing operations for bluefin tuna (*Thunnus thynnus*) is prohibited during the period from 1 to 30 June each year (Article 3a.2).

### 7.2.3.2. Area restrictions

The use of trawls, seines or similar nets is prohibited within three nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance, irrespective of the method of towing or haulage, except where a dispensation is provided for in national legislation with respect of a three-mile coastal zone which extends beyond the territorial waters of a Member State (Article 3.1).

Fishing with bottom trawls, seines or similar nets above the Posidonian beds (*Posidonia Oceanica*) or other marine phanerograms is prohibited (Article 3.3).

It is not permitted to set any type of encircling net within 300 m of the coast or within the 30 m isobath where that depth is reached at a shorter distance (Article 3.4).

Member States are required to draw up a list of protected zones in which fishing activities are restricted for biological reasons specific to those zones and set out the types of fishing gear that may be used therein as well as the appropriate technical rules (Article 4).

### 7.2.3.3. Time restrictions

It is forbidden to fish for bluefin tuna with purse seine during the month of August each year (Article 3a.1). However, by way of dispensation with this provision, **Article 3 of Council Regulation (EC) No. 49/1999 of 18 December 1999** provides that the taking of bluefin tuna with an encircling net is prohibited from 1 to 31 May in the Adriatic and from 16 July to 15 August in the rest of the Mediterranean.

These restrictions, which were set for 1999, have been extended throughout the year 2000<sup>69</sup>.

It is prohibited to fish for bluefin tuna using surface-set longlines from vessels greater than 24 m in length during the period from 1 June to 31 July each year (Article 5a.1).

#### **7.2.3.4. Fishing gear restrictions**

It is the duty of the Member States to determine the technical characteristics of the main types of fishing gear authorized to be used in their waters in accordance with the minimum requirements set out in Annex II of the Regulation. These are as follows:

- **Trawls (pelagic and demersal)**

The use of any device to cover the codend, on the inside or the outside, is restricted to the devices authorized by **Commission Regulation (EEC) No. 3440/84 of 6 December 1984**<sup>70</sup>.

- **Dredges**

The maximum breadth of dredges is 4 m, except in the case of dredges for sponge fishing (*gagava*).

- **Encircling nets (seines and *lampara* nets)**

The length of netting is restricted to 800 m and the drop to 120 m, except in the case of tuna seines.

- **Bottom-set nets (gillnets and entangling nets) and trammel nets**

The maximum drop of bottom-set nets is 4 m. It is forbidden to have on board and set more than 5,000 m of bottom-set nets per vessel.

- **Bottom-set longline**

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<sup>69</sup> Refer to Article 22.2 of Council Regulation (EC) No. 2742/1999 of 17 December 1999 fixing for 2000 the fishing opportunities and associated conditions for certain stocks and groups of fish stocks, applicable in Community waters, for Community vessels, in waters where limitations in catch are required, and amending Regulation (EC) No. 66/98 (OJ No. L 341 of 31 December 1999, p.1).

<sup>70</sup> Commission Regulation (EEC) No. 3440/84 of 6 December 1984 on the attachment of devices to trawls, Danish seines and similar nets establishes the list of devices that can be attached to trawls (chafers, strengthening bags, codlines, lifting straps etc.) and lays down their technical characteristics and the rules for their use (OJ No. L 318 of 7 December 1984, p.23). This Commission Regulation was amended by Commission Regulation (EEC) No. 955/87 of 1 April 1987 and Commission Regulation (EEC) No. 2122/89 of 14 July 1989.

It is forbidden to have on board and set more than 7,000 m of longline per vessel.

- **Surface-set longline (floating)**

It is forbidden to have on board and set more than 60 km of longline per vessel.

Minimum mesh size is 14 mm for encircling nets and 40 mm for towed nets (bottom trawls, surface trawls, anchored seines). For surface trawling of sardine and anchovy, the minimum mesh size is reduced to 20 mm where these species account for at least 70% of the catch after sorting (Annex III)<sup>71</sup>.

- **Minimum size/weight**

Any fish, crustacean or mollusk should be deemed undersized if it is smaller than the minimum sizes specified in Annex IV as follows:

Species	Minimum size
<b>FISH</b>	
<i>Dicentrarchus labrax</i>	23 cm
<i>Diplodus spp.</i>	15 cm
<i>Engraulis encrasicolus</i>	9 cm
<i>Epinephelus spp.</i>	45cm
<i>Lophius spp.</i>	30 cm
<i>Merluccius merluccius</i>	20 cm
<i>Mugil spp.</i>	16 cm
<i>Mullus spp.</i>	11 cm
<i>Pagellus spp.</i>	12 cm
<i>Pagrus pagrus</i>	18 cm
<i>Polyprion americanus</i>	45 cm
<i>Scomber scombrus</i>	18 cm
<i>Solea vulgaris</i>	20 cm
<i>Sparus aurata</i>	20 cm
<i>Thunnus thynnus</i>	70 cm or 6.4 kg <sup>72</sup>
<i>Trachurus spp.</i>	12 cm
<i>Xiphias gladius</i>	120 cm
<b>CRUSTACEANS</b>	

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<sup>71</sup> Methods to be employed to determine the mesh size of fishing nets are laid down in Commission Regulation (EEC) No. 2108/84 of 23 July 1984 (OJ No. L 194 of 24 July 1984, p. 22) as amended by Commission Regulation (EC) No. 2550/97 of 16 December 1997 (OJ No. L 349 of 19 December 1997, p. 1).

<sup>72</sup> Landing up to 15% in number of individuals weighing between 1.8 kg and 6.4 kg caught accidentally is authorized.

<i>Homarus gammarus</i>	85 mm carapace 240 mm total length
<i>Nephrops norvegicus</i>	20 mm carapace 70 mm total length
<i>Palinuridae</i>	240 mm total length
<b>MOLLUSKS</b>	
<i>Pecten spp.</i>	100 mm
<i>Venerupis spp.</i>	25 mm
<i>Venus spp.</i>	25 mm

By way of dispensation from Annex IV, **Article 3 of Council Regulation (EC) No. 49/1999 of 18 December 1999** prohibits the retention on board of individual bluefin tuna weighing less than 3.2 kg (compare to 6.4 kg as mentioned in the table above).

### 7.2.3.5. Supplementary measures

**Council Regulation (EC) No. 1626/94**, which is the basic regulation for the conservation of fishery resources in the Mediterranean, is supplemented by **Council Regulation (EC) No. 850/98 of 30 March 1998**<sup>73</sup> and **Council Regulation (EC) No. 1239/98 of 8 June 1998**<sup>74</sup> addressing the issues of marine mammals and driftnets respectively. Recognizing that the use of purse seines on schools of fish found in association with marine mammals may result in the catching and killing of such mammals, **Council Regulation (EC) No. 850/98 of 30 March 1998** prohibits the encircling of marine mammals with purse seines used by Community vessels in all waters (Article 33). In June 1998, the Council agreed on a progressive driftnet ban, which will come fully into effect as of 1 January 2002 (**Council Regulation (EC) No. 1239/98 of 8 June 1998**). From that date on, no community vessels will be authorized to keep on board, or use for fishing, one or more driftnets intended for the capture of, *inter alia*, bluefin tuna (*Thunnus thynnus*) or swordfish (*Xiphia gladius*). Until then, Community vessels may keep on board, or use for fishing, one or more driftnets, provided that the maximum number of vessels authorized to do so does not exceed 60% of the fleet using such gear during the period 1995 to 1997. During that period, the current maximum driftnet length of 2.5 km remains in force. This worldwide ban for Community vessels (except for the Baltic Sea) is expected to have a major beneficial effect on the conservation of small cetaceans and some species of fish.

### 7.2.4. Catch reporting

<sup>73</sup> Council Regulation No. 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ No. L 125, 27 April 1998, p. 1). This Regulation does not apply to the Mediterranean, except for the provisions of Article 33.

<sup>74</sup> Council Regulation No. 1239/98 of 8 June 1998 amending Regulation (EC) No. 894/97 laying down certain technical measures for the conservation of fishery resources (OJ No. L 171, 17 June 1998, p.1).

**Council Regulation (EEC) No. 2847/93 of 12 October 1993**<sup>75</sup> establishing a control system applicable to the common fisheries policy requires that masters of Community fishing vessels exceeding 10 m in overall length keep a logbook of their operations, indicating in particular the quantities of each species caught and kept on board, the date and location of such catches and the type of gear used (Article 6.1). In addition, the master of each such Community fishing vessel or his/her representative must, after each fishing trip and within 48 hours of landing, submit a declaration of catch to the competent authorities where the landing takes place (Article 8.1). It is important to note that this regulation contains an exemption clause excluding fisheries operations in the Mediterranean Sea from the scope of both Articles 6 and 8 until 1 January 1999 (Article 40). As a result, Community vessels operating within the Mediterranean were not, until recently, subject to any catch reporting requirements. By the end of 1998, the Council adopted two regulations wherein it incorporated language addressing the issue of catch reporting in the Mediterranean. First, **Council Regulation (EC) No. 49/1999 of 18 December 1998** urges Member States to introduce in the Mediterranean area systems for recording and sampling catches of specified stocks in order to estimate the total quantity of fish landed each month by Community vessels. Reports indicating the total quantities landed or transshipped during the previous month by vessels flying their flag or registered in their territory and the total quantities landed in their ports by vessels flying the flag of other Member States or registered therein must be submitted by the Member States to the Commission by the 15th of every month. Second, **Council Regulation (EC) No. 2846/98 of 17 December 1998**<sup>76</sup> specifies that with regard to fishing operations undertaken in the Mediterranean Sea, any amount of catch greater than 50 kg of live-weight equivalent retained on board of any specified species must be recorded in the logbook.

### 7.3. Marine protected areas and protected species

**Council Directive (EEC) No. 92/43 of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora**<sup>77</sup> provides the legal basis for establishing protected areas in the territory of EU Member States. Therefore, the provisions of this Directive apply automatically to the marine habitats and marine species located in the internal waters and the territorial sea of the four EU Mediterranean States.

The Directive aims to help ensure biodiversity through the conservation of natural habitats and of wild fauna and flora in the territory of Member States to which the Community Treaty applies (Article 2.1). It establishes a coherent European ecological network of special areas of conservation to be known as "Natura 2000"

<sup>75</sup> OJ No. L 261 of 20 October 1993, p.1. See also Commission Regulation (EEC) No. 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish (OJ No. L 276 of 10 October 1983).

<sup>76</sup> Council Regulation (EC) No. 2846/98 of 17 December 1998 amending Regulation (EEC) No. 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 358 of 31 December 1998, p.5).

<sup>77</sup> OJ No. L 206 of 22 July 1992, p.7.

designed to identify sites of Community interest that require special protection (Article 3.1). It is the duty of Member States to designate, on the basis of criteria specified in Annex III, sites of Community interest. With regard to aquatic species, which range over wide areas, such sites will be proposed only where there is a clearly identifiable area presenting the physical and biological factors essential for their life and reproduction (Article 4.1). The list of sites is adopted by the Commission in accordance with the procedure set forth in Article 4. In exceptional cases, sites can be selected by the Commission even without the proposal of the interested State (Article 5). A detailed work program and a precise timetable have been established to ensure the timely introduction of the Natura 2000 network. As a result, Member States are urged to designate special areas of conservation and to establish the necessary conservation measures, including management plans for these areas, by June 2004.

The Directive requires Member States to take the necessary measures to establish a system of strict protection for the animal species listed in Annex V in their natural range (Article 12). This includes, in particular, the Member States establishing a monitoring system designed to record incidental capture and killing of marine animal species (e.g. monk seals, sea turtles or cetaceans) and additional conservation measures, where needed, to ensure that incidental capture and killing do not have a significant negative impact on the species concerned. In this regard, it should be noted that incidental catch monitoring schemes have been co-financed by the Community, in particular under the Research programs on fisheries (AIR-FAIR projects)<sup>78</sup>.

#### 7.4. Comments

Due to the legal status of Mediterranean waters, consisting for the most part of high seas areas, Community fisheries law was for a long time only partially applied therein. Indeed, it was not until 1994, with the adoption of **Council Regulation No. 1626/94**, that a comprehensive set of technical measures was adopted for the Mediterranean. Recognition of the need to develop and strengthen conservation and management measures throughout the Mediterranean prompted the Community to become a member of both the GFCM and ICCAT. By doing so, the Community is now in a position to participate in shaping and implementing a more comprehensive legal framework for the conservation and management of the Mediterranean fisheries.

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<sup>78</sup> In *Communication from the Commission to the Council and the Parliament on fisheries management and nature conservation in the marine environment* (COM (1999) 363, p.11).

## 8. FRANCE

France is a Member State of the European Union and is therefore subject to the CFP and relevant EU regulations described in Section 7 above. While the EU is vested with exclusive competence in the field of fisheries, Member States have retained some residual powers with respect to the taking of measures for the conservation and management of the fisheries occurring within the waters under their sovereignty or jurisdiction, provided that such measures comply with EU regulations and conform to the CFP. Member States bordering the Mediterranean Sea have exercised this power to regulate fishing activities in this fishing area, since until 1994 the EU regulatory conservation and management framework did not fully apply to the Mediterranean.

The main fisheries legislation in France is the **Decree of 9 January 1852 as amended on marine fisheries. Law No. 85-542 of 22 May 1985**<sup>79</sup> modifying **Decree of 9 January 1852** is an important piece of legislation in that it recognizes EU exclusive competence in the field of fisheries. However, it should be noted that it also incorporates language providing that where fishing activities take place in waters that are excluded from the scope of EU regulations, measures for, *inter alia*, the conservation and management of fisheries occurring in these waters may be taken by Decree in State Council (décret en Conseil d'Etat). It was on this basis that **Decree No. 95-90 of 25 January 1990**, implementing **Article 3 of Decree of 9 January 1852** laying down the general conditions governing fishing in areas outside the scope of EU conservation and management regulatory framework, was adopted. This Decree is the basic regulation that governs commercial fishing operations in waters under French sovereignty in the Mediterranean Sea, including Corsica. Following the adoption of **Council Regulation (EC) No. 1626/94 of 27 June 1994** by the European Council (see Section 7 above), the Minister responsible for marine fisheries issued the **Order of 19 December 1994**<sup>80</sup>, laying down technical measures for professional fishing in the continental Mediterranean<sup>81</sup>.

### 8.1. Licensing

Vessels flying the French flag, whether operating within or outside the waters under the sovereignty or jurisdiction of France, are required, in accordance with EU regulations, to be properly licensed (see Section 7.1 above). The **Decree of 9 January 1852** as amended by **Law No. 97-1051 of 18 November 1997** on marine fisheries and marine fish farming<sup>82</sup> provides that in order to ensure the sustainable economic development of the fisheries sector, and in particular to ensure access to, and the

<sup>79</sup> JO No. 119 of 24 May 1985, p. 5815.

<sup>80</sup> JO of 26 January 1995, p. 1411.

<sup>81</sup> The term *continental Mediterranean* refers to the waters under French sovereignty off the French continental Mediterranean coast, excluding waters under French sovereignty surrounding Corsica.

<sup>82</sup> JO of 19 November 1997, p.16723.

sustainable use of, the resources, decrees in State Council are to be made to determine the conditions whereby fishing authorizations will be issued by the competent administrative authority. Such authorizations enable the vessels for which they are issued to fish, during any given period and in any given area, the species of fish specified therein. Where appropriate, the type of gear that may be used and the maximum quantity of fish that may be caught may also be mentioned in the authorizations. They are valid for a maximum period of twelve months and are not transferable (Article 3).

The **Order of 14 June 1991** establishes a licensing system for professional fishing in waters under French sovereignty surrounding Corsica<sup>83</sup>. It provides that no commercial fishing vessel is authorized to operate within the waters surrounding Corsica without a fishing license (Article 1). Each year, the Minister responsible for fisheries sets the number of licenses that can be issued in respect of the three types of fishing methods allowed in these waters, i.e. trawling, coastal fishing (*petits métiers côtiers*), and *petits métiers du large* (Articles 2 and 3). Both bottom trawling and mid-water trawling are authorized (Article 9). A *petits métiers côtiers* license can only be issued to vessels not exceeding 10 m in length, measured between the perpendiculars. No fishing implements other than trammel nets, gillnets, longlines, pots, beach seines and shrimp traps may be used by the holders of such licenses (Article 10). A *petits métiers du large* license may be issued only to vessels exceeding 10 m in length, measured between the perpendiculars. No fishing implements other than longlines fitted for the taking of swordfish, bottom set longlines, surface set gillnets and driftnets for the taking of swordfish and seine nets can be used under such a type of license (Article 11).

The **Order of 13 September 1993 as amended**<sup>84</sup> establishes a licensing system for the fishing of shellfish in waters under the sovereignty or jurisdiction of France. It provides that licenses for the fishing of shellfish may be required by decision of the National Committee for Marine Fisheries and Marine Fish Farming. However, the acquiring of such a license is mandatory for the taking of the species subject to a special fishing permit system, as provided for by EU regulations. Although it is applicable to the Mediterranean waters under French jurisdiction, this Order has not yet been implemented in this particular fishing area.

The **Order of 7 December 1993 as amended**<sup>85</sup> establishes a licensing system for the taking of crustaceans in waters under French sovereignty or jurisdiction. It provides that licenses for the fishing of shellfish may be required by decision of the National Committee for Marine Fisheries and Marine Fish Farming. However, the acquiring of such a license is mandatory for the taking of the species subject to a special fishing permit system, as provided for by EU regulations. Although it applies to the Mediterranean waters under French jurisdiction, this Order has not yet been implemented in this particular fishing area.

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<sup>83</sup> OJ of 10 July 1991, p. 8991.

<sup>84</sup> Order of 13 September (OJ of 29 September 1993, p. 13539) was amended by Order of 1 August 1996 (OJ of 15 August 1996, p. 12398).

<sup>85</sup> Order of 7 December 1993 (OJ of 21 December 1993) was amended by Order of 1 August 1996 (OJ of 15 August 1996, p. 12399).

The **Order of 11 April 1997**, introducing management measures regulating coastal fishing operations in the continental Mediterranean<sup>86</sup>, provides that fishing vessels fitted for commercial fishing operations known as *petite pêche* may be subject to a license system when using:

- purse seine
- *gangui* (pair trawl)
- *petit gangui*
- drifting gillnet
- dredge for oysters
- dredge for violets and shellfish other than oysters
- *verveux à anguilles* (fyke nets for eels) (Article 1).

Conditions attached to the licenses are determined by the competent Regional Committees for Marine Fisheries and Marine Fish Farming on proposals made by Local Committees for Marine Fisheries and Marine Fish Farming (Article 2).

The **Order of 11 April 1997** as amended<sup>87</sup>, laying down management measures for the taking of bluefin tuna<sup>88</sup> (*Thunnus thynnus*) in the continental Mediterranean, requires that all vessels using seine nets for the taking of *Thunnus thynnus* first obtain an annual license to do so. Vessels more than 25 m in length for which a "*Thunnus thynnus* license" has been issued are restricted to the fishing of *Thunnus thynnus*, whereas vessels not exceeding 25 m in length for which a "*Thunnus thynnus* license" has been issued may also target small pelagic species (Articles 2 and 3). No fishing gear other than seine nets can be kept on board and used from vessels for which a "*Thunnus thynnus* license" has been issued (Article 5).

A series of orders was adopted providing for the licensing of vessels using trawl nets<sup>89</sup>, seine nets, dredges, for the taking of urchins and corals and for fishing with lights.

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<sup>86</sup> Arrêté du 11 avril 1997 relatif à certaines mesures de gestion de la pêche côtière en Méditerranée continentale (OJ of 19 April 1997, p. 5950).

<sup>87</sup> Order of 11 April 1997 (OJ of 19 April 1997 p. 5950) as amended by Order of 10 March 2000.

<sup>88</sup> Locally known as *thon rouge*.

<sup>89</sup> Order of 25 November 1975 regulating the use of trawl nets in the Mediterranean as modified by Order of 11 April 1997.

## 8.2. Conservation and management measures

### 8.2.1 Commercial fishing

#### 8.2.1.1. Fishing gear

**Decree No. 90-95 of 1990** determines the types of net, fishing implement and fishing method that can lawfully be used in the Mediterranean Sea:

- towed nets such as trawls and *gangui*
- dredges for the taking of shellfish
- sieves for the taking of juvenile eels
- gillnets
- trammel nets
- seine nets
- lift nets such as *carrelet* or *balance*
- cast nets
- traps such as pots or fyke nets (*verveux*)
- lines
- implements such as rakes, harpoons, grapnels, scoop nets, fish spear etc.
- fishing with lights, live bait, and electric devices (Article 1).

Definition of the technical characteristics of the above-mentioned fishing nets, implements or methods is left to the Minister responsible for fisheries (Article 2).

The **Order of 19 December 1994**, laying down technical measures for professional fishing in the continental Mediterranean, regulates the technical characteristics, and conditions for use, of fishing gear.

#### ***Petits métiers***

The regional Committee for Marine Fisheries and Marine Fish Farming is empowered to determine the conditions governing the use of fishing gear from a vessel for which a *petits métiers* license has been issued. Such gear include beach seines locally known as *eissaugues*, *tartanons*, *bregins* or *bourgins* (Article 4).

#### 8.2.1.2. Trawl nets

Licenses authorizing the use of trawl nets may only be issued in respect of vessels exceeding 18 m in length or less than 25 m and more than 16 m measured between the perpendiculars. Their engine power must not exceed 316 kW measured on the basis of the ISO 3046/1 standard (Article 6).

The minimum mesh size for bottom trawl nets must not exceed 45 mm and that for pelagic trawl nets must not be greater than 20 mm (Article 8).

### 8.2.1.3. Purse seine

Licenses authorizing the use of purse seines may only be issued for vessels whose length is more than 6 m and less than 18 m (Article 11). The holder of a license permitting the use of seine nets for the taking of small pelagics may use light devices to attract these species. However, it is forbidden for each licensed vessel to use more than one supporting boat equipped with fishing lamps (Article 12).

### 8.2.1.4. Pair trawl (*gangui*)

No fishing vessels other than those registered in the Toulon and Marseilles maritime districts and which are no longer than 12 m may be granted licenses authorizing the use of *ganguis*. The engine power of these vessels must not be greater than 85 kW measured on the basis of the ISO 3046/1 standard.

No fishing vessels other than those registered in the Toulon and Nice maritime districts and which are no longer than 12 m may be granted licenses authorizing the use of *petits ganguis*. The engine power of these vessels must not be greater than 50 kW measured on the basis of the ISO 3046/1 standard (Article 15).

	Small <i>ganguis</i> for fish and shrimps	Small <i>ganguis</i> for urchins
Maximum length of bag (m)	10 m	1.50 m
Maximum total weight (Kg) (excluding net)	30 kg	30 kg
Minimum mesh size of bag (mm)	20 mm	80 mm
Maximum breadth (m)	1,50 m	1.50 m

Table : Technical characteristics applicable to *ganguis*

### 8.2.1.5. Dredges

No fishing vessels other than those which are no longer than 12 m and whose engine power is no greater than 150 kW may be granted fishing licenses that authorize the use of dredges (Article 20).

Dredges used in the continental Mediterranean must comply with the following minimum mesh size requirements (measured in the bag):

- 60 mm for dredges used for the taking of shellfish other than oysters
- 80 mm for dredges used for the taking of oysters (Article 23).

### 8.2.2. Fishing methods

The fishing method in which a pair trawl net (*gangui*) is towed by two vessels is strictly prohibited in the continental Mediterranean (**Article 18 of Order of 19 December 1994**).

### 8.2.3. Incidental catch

**Decree No. 90-95 of 1990** provides that the Minister responsible for fisheries may set the proportions of incidental catch that can be kept on board any vessel. Incidental catch in excess of set quantities must be immediately returned to its natural environment (Article 19).

Provisions regulating incidental catch in the continental Mediterranean are found in the **Order of 19 December 1994**.

With regard to trawl nets, the tonnage of catch per hauling of species other than sardines, anchovies, mackerels, tunas, *chinchards* and *bogues* must not exceed 10% of total live weight, provided that 70% of total live weight is made of sardines and/or anchovies (Article 7).

With regard to purse seine, the tonnage of catch per hauling of species other than small pelagic, large pelagic, *chinchards* and *bogues* must not exceed 10% of the total live weight (Article 13).

With regard to dredges, the tonnage of catch per hauling of species of shellfish other than those authorized must not exceed 10% of the total live weight and must not include any *palourdes*, *tellines* and *clovisses* (Article 22).

### 8.2.4. Fishing capacity

**Law No. 91-627 of 3 July 1991**<sup>90</sup> modifies **Decree of 9 January 1852** by adding Article 3-1. This new article establishes a fishing capacity program that is intended to reduce the capacity of the commercial fleet to a level that is commensurate with the resource available. To this end, it creates an exploitation permit (*permis de mise en exploitation*). This article is implemented by **Decree No. 93-33 of 8 January 1993 as amended**<sup>91</sup>. It provides that all vessels registered in France equipped or to be equipped for commercial fishing are required to acquire such a permit prior to: building; importing; being fitted for commercial fishing where the vessel is used for another activity; modifying the vessel's fishing capacity by increasing the tonnage or engine power; resuming fishing operations for a fishing vessel that has been idle for at least six months (Article 1). It should be noted that vessels that are used exclusively for the exploitation of corals or sponges are not subject to this regime. Also exempted from such a requirement are non-motorized boats and vessels fitted for the taking of shellfish (Article 8). Every year, the Minister responsible for marine fisheries determines the

<sup>90</sup> OJ of 5 July 1991, p. 8761.

<sup>91</sup> Decree No. 93-33 of 1993 (OJ of 10 January 1993) as amended by Decree No. 2000-249 of 15 March 2000 (OJ of 17 March 2000 p. 4175).

contingent of exploitation permits, expressed in power and in tonnage, that may be issued during the year (Article 2).

## 8.2.5. Fishing effort

### 8.2.5.1. Number of licenses/fishing implements

In order to protect the resource or ensure its sustainable utilization, the competent authority is entitled to restrict the number of fishing implements that can be used per vessel or fisherman, with respect to certain areas or certain species of fish. Taking into account the volume of resource available, this authority may also set the number of licenses to be issued for certain areas (**Articles 6 and 12 of Decree No. 90-95 of 1990**).

The **Order of 11 April 1997**<sup>92</sup> states the number of licenses that can be issued every year for fishing *Thunnus thynnus* by means of seine nets in the waters under French sovereignty in the continental Mediterranean. This is restricted to 43.

### 8.2.5.2. Days at sea

Licenses for the fishing of *Thunnus thynnus* by means of seine nets in the waters under the sovereignty of France in the continental Mediterranean are issued for a maximum of 172 days at sea in 2000 and 164 days at sea in 2001 (**Article 5 b of Order of 11 April 1997 as amended**).

## 8.2.6. Reporting

Reporting requirements imposed on commercial fishing activities are provided under the **Order of 18 July 1990**.

## 8.2.7. Quotas

As a member of the EU, France is subject to the TAC and quotas system established by the Community. **Article 3 of Decree of 9 January 1852**, as amended by **Law No. 97-1051 of 18 November 1997**, provides that the competent administrative authority is responsible for the allocation of quotas from the share available to France and specifies that these quotas are not transferable. No vessels other than those for which a genuine economic link with the territory of the French Republic has been established may be allocated a quota or granted a fishing authorization (Article 3-2). It was not until 1998 that the Community TAC and quotas system became applicable to the Mediterranean in respect of *Thunnus thynnus* (see Section 7.2 a above).

**Decree No. 90-95 of 1990** empowers the Ministry responsible for fisheries to set, by order, quotas in respect of any species or group of species occurring within those

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<sup>92</sup> Arrêté du 11 avril 1997 portant fixation du nombre de licences pour la pêche professionnelle du thon rouge en Méditerranée continentale (OJ of 19 April 1997, p. 5951).

internal and territorial waters under French sovereignty to which foreign vessels do not have access. As a measure of control, the same authority may impose the keeping of a logbook in which information relating to catches are recorded (Articles 16 and 18).

### 8.2.8. Minimum landing sizes

The **Order of 7 June 1994** establishes minimum landing sizes for certain species of aquatic organism that are not covered by EU regulations.

The minimum landing sizes of species of fish, crustacean and mollusk found in the Mediterranean Sea are regulated as follows:

Species	Size (cm) or weight
<b>FISH</b>	
<i>Dicentrarchus labrax</i>	25
<i>Lophius piscatorius</i> or <i>Lophius budegassa</i>	30
<i>Lepidorhombus boscii</i>	20
<i>Sparus aurata</i>	20
<i>Scomber scombrus</i>	22
<i>Scomber japonicus</i>	15
<i>Merluccius merluccius</i>	20
<i>Mugil spp.</i>	20
<i>Sparus pagrus</i>	20
<i>Raja spp.</i>	36
<i>Diplodus spp.</i>	15
<i>Solea vulgaris</i>	20
<i>Thunnus thynnus</i>	6.4 Kg <sup>93</sup>
Other species of fish excluding eels, juvenile eels, anchovies, <i>argentines</i> , <i>éperlans</i> , <i>lançons</i> , <i>monnets</i> , <i>prêtres</i> , sardines and sprats	12
<b>CRUSTACEANS</b>	
<i>Crangon crangon</i>	3
<i>Aristeus antennatus</i>	12
<i>Leander spp.</i>	3
<i>Palinurus vulgaris</i> and <i>Palinurus mauritanicus</i>	21 (total length)
<i>Macropipus puber</i>	5
<i>Moja squinado</i>	12
<b>MOLLUSKS</b>	
<i>Cerastoderma edule</i>	3
<i>Pecten jacobaeus</i>	10
<i>Crassostrea gigas</i>	6
<i>Ostrea edulis</i>	6
<i>Mytilus galloprovincialis</i>	4

<sup>93</sup> A proportion of undersized individuals is tolerated as incidental catch provided that it does not exceed 15% of the total catch of *Thunnus thynnus*.

<i>Donax trunculus</i>	2.5
<i>Paracentrotus lividus</i>	3.5 (spikes excluded)
<i>Venerupis rhomboides</i>	3.5
<i>Chlamys varia</i>	4
<i>Venerupis decussatus</i>	3.5
<i>Venerupis pullastra</i>	3
<i>Ruditapes philipinarum</i>	3.5
<i>Venerupis aureus</i>	3
<i>Venus verrucosa</i>	4
<i>Tellina spp.</i>	2.5
<i>Spisula ovalis</i>	2.8

### 8.2.9. Protected species

In order to ensure the protection of marine fauna occurring in the waters under French sovereignty or jurisdiction, a series of orders has been issued:

- **Order of 8 December 1988** establishing a list of protected species of fish in the national territory
- **Order of 28 February 1991** establishing a list of protected species of seal
- **Order of 17 July 1991** establishing a list of protected marine turtles in the metropolitan territory and in Guyana
- **Order of 7 October 1992** establishing a list of protected species of mollusk in the metropolitan territory
- **Order of 26 November 1992** establishing a list of protected marine fauna in the French territory.

### 8.2.10. Recreational fishing

**Decree No. 90-618 of 11 July 1990**<sup>94</sup> as amended, which regulates recreational fishing activities, empowers the competent authorities<sup>95</sup> within the limit of their jurisdiction, to take measures aiming at (Article 5):

- reducing the number or type of fishing gear that may be kept on board vessels used for recreational fishing
- establishing a list of authorized gear that can be used for underwater fishing or fishing alongside the shore
- setting out the characteristics, and conditions of use, of authorized gear
- prohibiting fishing, permanently or temporarily, in specified areas or during specified periods
- prohibiting the taking of certain species or restricting the quantity that can be taken

<sup>94</sup> Decree No. 90-618 (OJ of 14 July 1990, p. 8367) as amended by Decree No. 99-1163 of 21 December 1999 (OJ No. 302 of 30 December 1999, p. 19837).

<sup>95</sup> The competent authority for the continental Mediterranean is the préfet de la région Provence-Alpes-Côte d'Azur.

- establishing prohibited fishing zones in the vicinity of fish farms, artificial reefs or fish aggregating devices.

The term *recreational fishing* refers to fishing activities whose catch is intended for the exclusive consumption of the fisherman and his/her family. It is thus forbidden to sell such catch. Recreational fishing activities include fishing with a boat, underwater fishing, and fishing alongside the shore (Article 1).

As a general rule, recreational fishing is subject to the regulations applicable to commercial fishing with respect to fishing gear specifications and conditions of their use, minimum fish sizes, fishing methods, prohibited fishing zones and closed seasons. The Minister responsible for fisheries is entitled to make regulations establishing the minimum legal sizes or weights of species of fish, crustacean, mollusk and other marine species specified in the list annexed to the Decree. These rules may not be less stringent than those adopted for commercial fishing (Article 2)<sup>96</sup>. The **Order of 21 December 1999**<sup>97</sup> sets out the minimum legal sizes or weights of species that may be taken in the course of recreational fishing activities in the Mediterranean.

**Decree No. 90-618** establishes a list of the gear that can be lawfully kept on board and used from fishing vessels for recreational fishing purposes in the Mediterranean. These are the following:

- hooks and lines, provided that no more than 12 hooks can be used at any given time
- 2 longlines fitted with a maximum of 30 hooks each
- 2 fish pots
- 1 fish spear (*foëne*)
- 1 scoop net
- 1 *grapette à dents*.

Any person wishing to practice underwater fishing is required to inform the competent local authorities, unless he/she holds a license issued by a certified sport federation authorizing him/her to do so. Use of any apparatus, such as scuba, for breathing under water while swimming is prohibited. While fishing underwater, no person should (Article 4):

- fish after sunset and before sunrise
- fish within 150 m of fishing vessels or set fishing gear properly signaled
- catch fish or other marine species entangled in nets set by other fishermen
- use any light devices to attract fish
- use a fish spear for catching crustaceans.

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<sup>96</sup> See paragraph f above.

<sup>97</sup> OJ No. 302 of 30 December 1999, p. 19846.

### 8.3. Marine protected areas

The French Government has used two statutes to protect areas of marine waters and adjacent coastal areas. The first of these is **Law No. 60-708 of 22 July 1960**<sup>98</sup> authorizing the creation of national parks. Although it is primarily designed to protect land-based area, it may also extend to areas of the maritime public domain. Of the seven national parks that exist in France, one includes marine waters. It is the National Park of Port-Cros that was established by **Decree No. 63-1235 of 14 December 1963**<sup>99</sup>. It comprises two islands and a 600-meter zone around them covering a surface area of approximately 1,800 hectares. Fishing other than with nets or spear guns is generally permitted in the park.

Discrete marine areas have been protected under **Law No. 76-629 of 10 July 1976 on the protection of nature**<sup>100</sup> authorizing the creation of nature reserves on land and/or in the 12-mile territorial sea (Article 4). It provides that nature reserves may be designated for the following purposes, notably:

- the preservation of species of animal or plant and habitats that are disappearing from all or part of the national territory or that present exceptional features
- the rebuilding of animal or plant populations or their habitats (Article 16).

It stipulates that all actions, including fishing, that could either harm the natural development of fauna and flora or generally alter the character of the reserve may be restricted or prohibited therein (Article 18).

Several nature reserves, including marine areas, have been established in the Mediterranean waters under French sovereignty.

The nature reserve of Scandola, Corsica, was designated on **9 December 1975**<sup>101</sup>, and comprises a marine zone of approximately 1,000 hectares and a terrestrial area of about 919 hectares. Professional fishing is allowed in the marine zone, except in the part which is integrally protected. Spear fishing is strictly prohibited throughout the reserve.

The reserve of Lavezzi Islands off Bonifacio, Corsica, covers a marine area of approximately 5,000 hectares and a terrestrial area of about 80 hectares. Spear fishing is prohibited throughout the reserve.

Under **Law No. 76-629 of 1976**, French préfets may issue orders for the preservation of areas that are the habitat of listed protected species of animals or plants (*arrêtés de biotopes*). These orders may prohibit or restrict any activity that is liable to affect the habitats concerned. In France, territorial waters are the exclusive domain of

<sup>98</sup> OJ of 23 July 1960.

<sup>99</sup> OJ of 16-17 December 1963.

<sup>100</sup> OJ of 13 July 1976, p. 4203.

<sup>101</sup> Decree No. 75-1128 of 9 December 1975.

the national government and thus are not subject to local or regional management authority. As a result, orders of this kind that affect the public maritime domain are issued by the Minister responsible for marine fisheries. For instance, an **Order of 7 May 1998**<sup>102</sup> was issued to establish *une zone de protection de biotope* on the public maritime domain off Saint Florent, Corsica. It specifies that underwater fishing is strictly prohibited in this zone.

In order to allow fish stocks to be replenished, **Decree No. 90-95 of 1990** enables the competent authority to prohibit fishing in certain areas for a limited period of time (Article 20).

#### 8.4. Comments

As reflected in the table summarizing the various topics covered by fisheries legislation annexed to this study, the French fisheries regulatory framework is very comprehensive. Nonetheless, disparities in fisheries regulations may exist at local level in the Mediterranean since *prud'hommies*<sup>103</sup> (local institutions of professional fishermen) retain regulatory powers in fishery matters. Furthermore, it should be noted that EU regulations have been resisted by local fishermen in the Mediterranean, where there is a long tradition of fishing small fish with nets of small mesh size.

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<sup>102</sup> OJ of 23 June 1998, p. 9512.

<sup>103</sup> *Prud'hommies*, which are specific to the Mediterranean, are recognized as professional institutions by the Decree of 18 November 1859, which determines their functions and powers. To date, there are 33 *prud'hommies* covering both the continental Mediterranean and Corsica. See *Rapport sur l'exercice de la pêche dans la zone côtière de la France*, Ministry of Agriculture and Fisheries, January 2000.

## 9. GREECE

Greece is a Member State of the European Union and as such is subject to the relevant EU regulations, notably **Council Regulation (EC) No. 1626/94 of 27 June 1994** (see Section 7.2 b above).

Basic regulatory framework for fisheries: There is a complex but extensive legal framework for fisheries, made up of Legislative Decree 420/70 'Fishing Code' (Ephemeris tis Kyverniseos 27A/70, Law 2040/92 Ephemeris tis Kyverniseos 70/A/23-4-92), Law 2732/99, Law 2326/95/Ephemeris tis Kyverniseos 153/A/27-7-95.

### 9.1. Licensing

A fishing licence is made out for every vessel in accordance with Royal Decree 666/66 (Ephemeris tis Kyverniseos 160A). But no new licence has been granted since 1991, according to Presidential Decree 261/91, in conformity with European Community policy.

### 9.2. Conservation and management measures

Greece offers a jagged coastline fringed with scores of islands. It embraces several sizeable islands lying further off its shores, including Crete, Rhodes and the Cyclades Archipelago. Greece's peculiar geographical features call for a flexible regulatory framework enabling the competent authorities to adopt appropriate measures at local level. To that end, the President is authorized to issue orders to regulate fishing activities in various parts of Greece.

#### 9.2.1. Use of trawlers

This is regulated by a series of decrees, i.e.

- Presidential Decree 917 (Ephemeris tis Kyverniseos 248/A/27-9-1966)
- Presidential Decree 1063 (Ephemeris tis Kyverniseos 268/A/27-11-1980)
- Royal Decree 666/66 (Ephemeris tis Kyverniseos 160A)
- Royal Decree 50/67 (Ephemeris tis Kyverniseos 13/A)
- Presidential Decree 1064/12-11-90 (Ephemeris tis Kyverniseos 268/A/27-11-1980)
- Presidential Decree 698/23-6-81 (Ephemeris tis Kyverniseos 173/A/23-6-81)
- Presidential Decree 988/80 (Ephemeris tis Kyverniseos 247/A/23-10-80)
- Presidential Decree 94/19-2-75 (Ephemeris tis Kyverniseos 299/A/31-12-75)
- Presidential Decree 346/82 (Ephemeris tis Kyverniseos 61/A)
- Presidential Decree 143/16-4-86 (Ephemeris tis Kyverniseos 53/A/24-4-86).

These regulations taken together provide for:

- a total ban on operations during the months of June, July, August and September of each year
- a monitoring of mesh size in the bag of the net (minimum 20 mm for each side of the rectangle, 40 mm diagonally)
- a total ban on operations during the year inside the zone one nautical mile from the coast; starting from 2002, a total ban on operations inside the 3-nautical-mile zone or inside the 50 metres-deep area.

The local ban on operations during certain periods in closed gulfs and commercial species' reproduction sites was lifted by Royal Decree 917/66, which authorized five places, i.e. the Gulf of Thermaikos-Thessalonika (P.D.189/78/Ephemeris tis Kyverniseos 41/A/31-7-79), the Gulf of Zaverda in Lefkas (P.D.559/79/Ephemeris tis Kyverniseos 174/A/31-7-79), the Evros marine area (P.D.739/79/Ephemeris tis Kyverniseos 279/A/18-9-79), the Finikountas area in Messinia (P.D.9/24-1-91/Ephemeris tis Kyverniseos 6A/91), and the Gulf of Messiniakos (P.D.222/30-5-91/Ephemeris tis Kyverniseos 82/A).

**9.2.2. Use of purse seines:** This is regulated by a package of decrees, i.e.

- Royal Decree 23-3-53/Ephemeris tis Kyverniseos 81/A, as modified by Presidential Decrees 921/20-12-75/Ephemeris tis Kyverniseos 293A/75, 244/21-6-91/Ephemeris tis Kyverniseos 93A/21-6-91, and 25/95/Ephemeris tis Kyverniseos 9A/5-2-93
- Royal Decree 17-8-55/Ephemeris tis Kyverniseos 243A/5-8-55
- Royal Decree 764/11-11-69/Ephemeris tis Kyverniseos 242/A
- Royal Decree 445/15-8-63/Ephemeris tis Kyverniseos 129A/63
- Presidential Decree 1095/15-11-77/Ephemeris tis Kyverniseos 356A/77.

These regulations mainly provided for:

- mesh size for purse seines used by day (minimum 20 mm) and by night (minimum 7 mm)
- a ban on fishing in less than 30 metres of water or at a distance of less than 300 metres from the coast
- the length of the nets must be less than 800 metres and the width less than 120 metres
- a ban on night fishing starting from 15 December of each year until the end of the following February and a ban on daylight fishing during the months of July and August of each year
- a ban on fishing less than 500 metres from the entrances to fish lagoons
- a ban on using a trawler
- a ban on night fishing during 5 days of the full moon
- setting an acceptable maximum power of light for night fishing.

A local ban on fishing during certain periods in closed gulfs and commercial species' reproduction sites, i.e. the Gulf of Maliakos-Evoikos, the Gulf of Vistonis, the Gulf of Navarino, the Gulf of Antikyras and the Gulf of Thermaikos-Thessalonika.

### 9.2.3. Other fishing vessels (vitsotrata) and vessels using fixed nets:

A package of regulations exists for other types of fishing vessel (vitsotrata). It establishes a total ban on fishing during the months of June, July, August and September of each year, with a minimum mesh size of 8 mm, an obligation to operate by day only, and a restriction on the vessel's movement while fishing and a positioning inside the area 70 metres from the coast.

A total ban on operations during certain periods in closed gulfs and commercial species' reproduction sites, i.e. the Gulf of Maliakos, the Gulf of Argolikos, and the Gulf of Kalloni. This type of vessel will be totally banned after 2002.

A package of regulations exists for fixed nets, concerning maximum width (4 metres) and maximum length (5,000 metres by vessel) for depth nets. A total ban on operations during certain periods in closed gulfs and commercial species' reproduction sites has been instituted in several sites throughout Greece.

For example, **Presidential Order No. 497** regulating the use of nets in the Gulf of Maliakos was adopted on 29 September 1988<sup>104</sup>. It stipulates that the use of nets of any kind whatever that are longer than 13 metres is strictly forbidden in this area. Their minimum mesh size is restricted to 22 millimetres.

**Presidential Order No. 237 of 24 July 1996**<sup>105</sup> regulating the catching of lobsters throughout Greek waters lays down that the fishing and the displaying in the market of the following species of lobster – *Palinurus elephas* and *Homarus gamarus* – are forbidden from 1 September to 31 December of each year. The taking of any individual whatever of such a species weighing under 420 g is strictly forbidden, as is that of berried female lobsters during the year. Any berried female lobster which is caught must be immediately returned to the sea.

### 9.3.4- Non-professional (non-commercial) fishing:

This is regulated by Presidential Decree 373/1985.

There is a list of fishing means and methods which are forbidden by several laws.

There is a package of restrictions for the fishing of certain species, instituted by several laws.

### 9.2.4. Protected species:

**Presidential Decree 67/1981** (Ephemeris tis Kyverniseos 23A/30-1-1981), entitled 'For the protection of endemic flora and wild fauna and the determining of a

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<sup>104</sup> Efimeris tis kyverniseos No. 225 (first part) of 5 October 1998, p. 3504.

<sup>105</sup> Efimeris tis kyverniseos No. 178 (first part) of 1 August 1996, p. 3065.

procedure for coordinating and monitoring research concerning these', concerns 7 species of marine mammal (*B. acutorostrata*, *B. physalus*, *D. delphis*, *M. monachus*, *O. orca*, *P. phocoena*, *T. truncatus*), 3 species of marine reptile and 5 species of marine fish. All species of marine invertebrates are excluded from fishing activities, except for Bivalve Molluscs and marine Gastropoda, for which specific regulations were instituted by Presidential Decree 86 of 10 April 1998 (Ephemeris tis Kyverniseos 78/A).

### 9.3. Marine protected areas

**Law No. 1650 of 10 October 1986**<sup>106</sup> on the protection of the environment provides for the establishing of specially protected areas which can be located either on land or in the sea or include both land and marine zones. These areas are protected or conserved for, *inter alia*, their ecological or biological importance. Five categories of specially protected area can be established, namely areas of strict nature protection, areas of nature protection, national parks, protected natural formations, and eco-development areas.

The Alonissos Marine National Park, located in the Northern Sporades Islands, was created by the **Presidential Order of 16 May 1992**<sup>107</sup>. It covers an area of approximately 2,200 km<sup>2</sup> mostly composed of marine waters, including several islands and rocky islets. Several endangered species, including the monk seal (*Monachus monachus*), have their habitat in the Park area. Abundant populations of *Palinurus elephas* are also found in the Northern Sporades Islands.

Other important measures of protection of marine endangered species have been adopted under the Decree of 16 June 1990<sup>108</sup>, which established a protection zone along the Gulf of Laganas (Island of Zakynthos) in order to protect the egg-laying sites of the marine turtle (*Caretta Caretta*) and coastal marine ecosystems. The **Presidential Decree of 22 December 1999** (Ephemeris tis Kyverniseos 906/D) created the Zakynthos Marine National Park and replaced existing law for conservation of this site.

The **Presidential Decree of 3 July 2000** (Ephemeris tis Kyverniseos 395/D) created the Schinias National Park, which contains *inter alia* a marine area.

The Joint **Ministerial Decision 85/86 of 4 April 1998** (Ephemeris tis Kyverniseos 376/B) instituted measures for the wetlands of the Evros Delta which contain *inter alia* a marine area.

The Joint **Ministerial Decision 5796 of 16 September 1998** (Ephemeris tis Kyverniseos 854/B) instituted measures for the wetlands of the Delta of Nestos-Vistonis Lake-Porto Lagos Lagoon-Ismaris and adjoining lagoons which contain *inter alia* a marine area.

<sup>106</sup> Efimeris tis kyverniseos of 16 October 1986.

<sup>107</sup> Efimeris tis kyverniseos of 28 May 1992.

<sup>108</sup> Efimeris tis kyverniseos of 5 July 1990.

The Joint **Ministerial Decision 14874/3291 of 6 July 1998** (Ephemeris tis Kyverniseos 687/B) instituted measures for the wetlands of the Delta of Axios-Loudias-Aliakmon which contain *inter alia* a marine area.

The Joint **Ministerial Decision 30027/1193 of 29 March 1990** (Ephemeris tis Kyverniseos 194/B) instituted measures for the wetlands of the Amvrakikos lagoons which contain *inter alia* a marine area.

The Joint **Ministerial Decision 1319 of 28 September 1993** (Ephemeris tis Kyverniseos 755/B) instituted measures for the wetlands of the Messolonghi-Aetoliko lagoons which contain *inter alia* a marine area.

The Joint **Ministerial Decision 66289 of 10 July 1993** (Ephemeris tis Kyverniseos 506/B) instituted measures for the wetlands of the Kotychi lagoon and the Strofyliae forest which contain *inter alia* a marine area.

#### 9.4. Comments

Thus, much scattered information is available about the Greek regulatory framework for fishing. But this overall, synthesizing analysis should not be taken as a detailed, exhaustive analysis of Greek fishing law and, via that, of all the measures restricting fishing activities, with an assessment of the favourable impact these measures may have on marine ecosystems. It is however certain that already, both via the regulating of fishing gear, methods and periods and via the protecting of certain threatened or vulnerable species, and the protection of certain areas chosen for their value as a natural habitat or as a spawning ground, the Greek legal battery analysed above offers an interesting overall idea.

## 10. ISRAEL

Israeli fisheries legislation rests on two main pieces of legislation and regulations, namely the **Fisheries Ordinance of 1937** as amended<sup>109</sup> and its implementing regulations laid out in **the Fisheries Rules of 1937** as amended<sup>110</sup>.

### 10.1. Licensing

The taking of fish within Israeli territorial waters<sup>111</sup> is subject to licensing. As a general rule, fishing vessels that are not registered in an Israeli port or place are not eligible for a fishing license to operate in these waters. However, the Minister responsible for fisheries is entitled to grant, at his/her discretion and subject to such conditions or restrictions as he/she may think fit, a special license to a fishing vessel registered outside Israel. The licensing authority may restrict the use of a license to the area within which the vessel may fish and the method and gear that can be employed from such a vessel. A license is valid for a maximum period of one year and is generally not transferable (**Sections 3 and 3A of the Fisheries Ordinance of 1937** as amended). However, the transfer of a license may be allowed by the Director of Fisheries, provided that such a transfer is made to a vessel with a similar fishing capacity. Vessels operating hand-lines for fishing are exempted from the requirement to obtain a license (**Sections 8A and 9 of the Fisheries Rules of 1937** as amended).

A permit to land fish in an Israeli port may be granted by the Minister responsible for fisheries to a vessel registered outside Israel. No such vessel, however, should be granted a permit to land fish unless the master of the vessel has agreed in writing to conform to the rules in force in Israel with regard to the minimum mesh size of nets and the minimum landing size of fish (**Section 4 of the Fisheries Ordinance of 1937** as amended). Such a permit does not allow the vessel for which it has been issued to fish within Israeli territorial waters (**Section 3 (4) (a) of the Fisheries Rules of 1937** as amended).

### 10.2. Conservation and management measures

The Minister responsible for fisheries is vested with general regulatory powers and may in particular make rules (**Section 9 of the Fisheries Ordinance of 1937** as amended):

<sup>109</sup> The analysis was made on the basis of the consolidated version of the Fisheries Ordinance of 1937 as amended in 1939, 1944 and 1946.

<sup>110</sup> The analysis was made on the basis of the consolidated version of the Fisheries Rules of 1937 as amended in 1938, 1940, 1945 and 1946.

<sup>111</sup> Israeli territorial waters were extended from 6 to 12 miles by Law No. 5750-1990 of 5 February 1990 modifying the Law on territorial waters.

- prohibiting any practices or methods, or employment of equipment or devices or materials which are likely to be injurious to the resources
- prescribing areas and seasons within which the taking of fish is prohibited or restricted, either generally or with respect to any specified species of fish
- prescribing the minimum landing size of species of fish
- prescribing the minimum mesh size of nets.

### 10.2.1. Fishing methods

The use of dynamite or other explosive substance or of any noxious or poisonous matter for fishing purposes is strictly prohibited (**Section 5 of the Fisheries Ordinance of 1937** as amended). Likewise the use of firearms to take fish is strictly forbidden (**Section 4 (12) of the Fisheries Rules 1937** as amended).

The taking of fish using an electric shocker or by means of beach seine or a dredge or *rapido*-type beam trawl is generally prohibited unless special permission to do so has been granted by the Director of Fisheries (**Section 4, paragraphs (14), (15) and (17) of the Fisheries Rules of 1937** as amended).

Use of any breathing apparatus, such as scuba, while fishing with a spear gun is prohibited without a special permission issued by the Director of Fisheries (**Section 4 (10) of the Fisheries Rules of 1937** as amended).

### 10.2.2. Area restrictions

Trawling is forbidden at depths of less than 15 m throughout waters under Israeli sovereignty in the Mediterranean (**Section 3 (1) of the Fisheries Rules of 1937** as amended).

Use of nets, except cast nets or special nets for the catching of fry, within 100 m of the mouth of any river is subject to the prior approval of the Director of Fisheries (**Section 4 (3) of the Fisheries Rules of 1937** as amended).

Fishing is strictly prohibited in the area of the Mediterranean delimited by Tel Shikmona in the north and Carmel Beach in the south (**Section 8 A (a) of the Fisheries Rules of 1937** as amended).

Underwater fishing is not allowed within an area extending from coordinate 15552495 along Haifa Bay Beach to coordinate 14832490 and from these points to coordinates 14802510 and 15552495 seaward (**Section 9 of the Fisheries Rules of 1937** as amended).

### 10.2.3. Fishing gear

It is forbidden to use (**Section 4 (16) of the Fisheries Rules of 1937** as amended):

- bottom-set long lines more than 7,000 m long

- surface-set long lines more than 6,000 m long
- entangling nets anchored to the sea-bed more than 5,000 m long.

The minimum mesh sizes of nets must not be less than **(Section 5 of the Fisheries Rules of 1937 as amended)**:

- 22 mm (knot to knot) or 44 mm (stretched net) in any part of trawl nets other than the codend and 24 mm (knot to knot) or 48 mm (stretched net) in the codend provided that the codend does not exceed 4 m in length
- 12 mm (knot to knot) when new or 11 mm (knot to knot) when treated or 10 mm (knot to knot) in any condition for any nets other than trawl nets and entangling nets
- 14 mm (knot to knot) for entangling nets
- 30 mm for fish traps or lobster pots.

#### 10.2.4. Minimum landing size of fish

It is forbidden to take or possess any species of fish less than the length specified in the Schedule annexed to the Fisheries Rules of 1937 as amended. Principal regulated species are the following:

Species	Minimum size (cm)
<i>Mugil cephalus</i>	20
<i>Boops boops</i>	11
<i>Sparus aurata</i>	15
<i>Pagrus sp.</i>	15
<i>Sardinella aurita</i>	11
<i>Sardinella maderensis</i>	11
<i>Mullus barbatus</i>	11
<i>Mullus surmuletus</i>	11
<i>Merluccius merluccius</i>	16
<i>Solea vulgaris</i>	16
<i>Thunnus thynnus</i>	70

#### 10.2.5. Protected species

It is forbidden to fish blind shrimps (*Typhlocaris galilea*) and marine turtles occurring within Israeli territorial waters **(Section 5, paragraphs D and E, of the Fisheries Rules of 1937 as amended)**.

#### 10.2.6. Time restrictions

Trawling in the waters under Israeli sovereignty in the Mediterranean is prohibited from 20 June to 5 August each year (**Section 8A (f) of the Fisheries Rules of 1937** as amended).

### 10.2.7. Reporting requirements

The master of any fishing vessel operating within Israeli territorial waters is required to keep a logbook in which information about fishing activities must be recorded. He/she must periodically provide the Director of Fisheries with a report containing catch data indicating the total volume of catch, broken down as to species, size and gender, and the method by which species were caught (**Sections 7A and 14 of the Fisheries Rules of 1937** as amended).

### 10.2.8. Fishing effort

In order to control the fishing effort in waters under Israeli sovereignty in the Mediterranean, the fisheries management authority restricts the maximum number of fishing licenses that may be issued each year. As of writing, 30 licenses for trawlers and 350 licenses for inshore fishery<sup>112</sup> are issued yearly.

## 10.3. Marine protected area

**The National Parks, Nature Reserves, Memorial Sites and National Sites Law of 1992** provides the legal basis for the establishment of protected areas in Israel. It should be noted that existing marine areas have been protected under the National Parks, Nature Reserves and National Monuments **Law No. 5723 of 1963**<sup>113</sup> authorizing the creation of nature reserves on land and in the Israeli territorial waters. To date, three nature reserves including marine areas have been established in the Mediterranean, namely Rosh Hanikra, Ma'agan Michael Islands and Dor Habonim.

The Rosh Hanikra nature reserve, established in 1965, covers a total surface of approximately 40 hectares, including a 1.3-km wide water band off a 5-km stretch of coastline extending from Akhziv to the Lebanese border. The sandy beaches in the reserve serve as spawning grounds for the marine turtles of the species *Chelonia mydas* and *Caretta caretta*. Underwater fishing and shellfish harvesting is strictly prohibited throughout the nature reserve.

The Ma'agan Michael Islands were designated as a nature reserve in 1964. It covers an area of two hectares comprising a marine area and a small group of islands. It is primarily designed to protect nesting grounds and resting points for migratory birds.

<sup>112</sup> The term *inshore fishery* refers to "all fishing methods specified in these rules, excluding purse seining, trawling or fishing by floating longlines" (Section 1a of the Fisheries Rules of 1937 as amended).

<sup>113</sup> This Law was abrogated in 1992 and replaced by the National Parks, Natural Reserves, Memorial Sites and National Sites Law of 1992.

Dor Habonim was designated as a nature reserve in 1980. It covers a total surface of about 113 hectares, including a marine area. The reserve hosts abundant populations of mollusk, echinoderm and fish.

#### 10.4. Comments and recommendations

Israeli fisheries legislation provides a fairly comprehensive legal framework. However, several issues of importance have not been addressed.

The licensing system provided under the Fisheries Ordinance of 1937 as amended does not apply to fishing vessels flying the Israeli flag that operate on the high seas. Some words should be incorporated in the 1937 Ordinance so that Israeli law comply with the principle of international law that provides that it is the duty of the flag state to ensure that any vessel flying its flag, operating on the high seas, is properly licensed. It is therefore recommended that the 1937 Ordinance be amended to require the licensing of Israeli vessels operating on the high seas.

Based on information collected from the Israeli fisheries management authority, to date no fisheries management plan has been devised in Israel. Since the 1937 Ordinance as amended does not provide for establishing such a planning instrument, the fisheries management authority has currently no legal obligation to prepare such a plan. In order to remedy this situation, it is recommended that some words be incorporated in the 1937 Ordinance as amended, providing for the devising of a fisheries management plan.

Although it combines a wide range of conservation and management measures, Israeli fisheries legislation does not include any provision that tackles the issue of incidental catch. It is therefore recommended that the 1937 Fisheries Rules be modified by inserting additional provisions that address the issue of incidental catch by establishing thresholds and procedures governing the disposal of such catch.

## 11. ITALY

As a Member State of the European Union, Italy is subject to the CFP and EU regulations applicable to the Mediterranean (see Section 7 above). The basic Italian fisheries legislation is the **Sea Fisheries Act No. 963 of 14 July 1965**<sup>114</sup> supplemented by the sea fisheries regulations contained in **Presidential Decree No. 1639 of 2 October 1968**<sup>115</sup> and numerous other regulations issued at local level.

### 11.1. Licensing

The **Ministerial Decree of 26 July 1995**<sup>116</sup> lays down the rules governing the granting of fishing licenses. A fishing license is required for every vessel operating within Italian waters. Fishing licenses are gear-specific, thus only authorizing the use of the gear specified in the license. In order to facilitate implementation of this system, fishing gear and methods (*sistemi di pesca*) are classified in homogeneous categories (Article 11).

### 11.2. Conservation and management measures

In 1997, Italy undertook a reform of its administrative system, transferring a number of competences from the central government to regional level. As a result of this administrative reorganization, measures for the conservation and management of fisheries are now adopted at regional level (**Legislative Decree No. 143 of 4 June 1997**).

#### 11.2.1. Fishing methods

The use of explosives, noxious substances or electric shockers for fishing purposes is strictly prohibited throughout Italian waters (**Article 15 (d) of the Sea Fisheries Act of 1965**).

#### Protection of fry

Fishing of juveniles of any species of aquatic organism is subject to the prior approval of the competent authority (**Article 15 (c) of the Sea Fisheries Act of 1965**).

<sup>114</sup> *Gazzetta Ufficiale della Repubblica Italiana (GURI)* No. 203 of 14 August 1965, p. 3902.

<sup>115</sup> *GURI* No. 188 of 25 July 1969, p. 1.

<sup>116</sup> *GURI* No. 203 of 31 August 1995, p. 8.

The **Ministerial Decree of 7 August 1996**<sup>117</sup> regulates the taking of live fry or spats for rearing or stocking purposes. Authorized fishing seasons for such activity throughout Italian waters are the following (Article 1.1):

- from the second Monday of March to 14 June and from 16 September to 31 December for fish species
- from 1 January to 14 June and from 16 September to 31 December for eel species
- from 1 January to 15 June and from 15 September to 31 December for species of *mitilli* (mussel) and *vongole veraci* (clam).

Fishing of fry or spats for rearing or stocking purposes is subject to daily catch limits to be determined annually by the central administration responsible for fisheries after consultation with the National Committee for the conservation and management of marine biological resources (Article 2.1).

It is forbidden to fish any *vongola verace* (clam) and *mitilo* (mussel) exceeding 1.5 cm and 2.5 cm in length respectively (Article 2.2).

Live fry of fish can only be taken by means of nets (Article 3.1), whereas live spats of bivalve mollusks can only be caught by means of implements operated manually (Article 5.1).

### 11.2.2. Fishing effort

Recognizing the need to contain the level of fishing effort exerted by mid-water trawls, the Minister responsible for fishery adopted in 1989 a Decree prohibiting the issue of any new fishing licenses authorizing the use of this type of net (**Decree of 28 December 1989**)<sup>118</sup>.

In order to ensure the rational utilization of the bivalve mollusk fishery, the competent authorities have set for each maritime district a maximum number of fishing units authorized to fish these species<sup>119</sup>.

### 11.2.3. Specific fisheries

#### 11.2.3.1. Fry for human consumption and *rossetto* (*Alphia minuta*)

The **Ministerial Decree of 28 August 1996**<sup>120</sup> regulates the fishing of fry for human consumption and *rossetto* (*Alphia minuta*). It allows the commercial fishing of fry of *sarda*, *alice* and *alaccia* for a sixty-day period each year, to be set by the National

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<sup>117</sup> *GURI* No. 225 of 25 September 1996, p. 13.

<sup>118</sup> *GURI* No. 12 of 16 January 1990.

<sup>119</sup> See the Ministerial Decree of 2 August 1996 regulating the taking of bivalve mollusks (*GURI* No. 226 of 26 September 1996) and the Ministerial Decree of 21 July 1998 (*GURI* No. 164 of 5 August 1998).

<sup>120</sup> *GURI* No. 237 of 9 October 1996, p. 20.

Fisheries Management Committee. No fishing vessels other than those less than 10 GRT and whose engine power does not exceed 100 Hp may be authorized to undertake such activity, and the total number of licenses to be issued should not exceed the maximum number of licenses set for this type of fishing (Article 1). *Bianchetto* and *rossetto* (*Aplia minuta*) may only be taken by means of trawl nets, surrounding nets or seine nets. The minimum mesh size of these nets must not be less than 5 mm (Article 2.1).

The **Decree of 30 November 1999**<sup>121</sup>, implementing the Ministerial Decree of 28 August 1996, regulates the commercial fishing of *rossetto* (*Alphia minuta*) in the maritime districts of Liguria and Toscana. It provides that commercial fishing for *rossetto* (*Alphia minuta*) is allowed from 1 November to 30 April in Toscana and from 1 November to 30 March in Liguria, and that no nets other than seine nets can be used.

### 11.2.3.2. Bivalve mollusks

While it recognizes the competence of the regional management commissions for managing the fisheries that come within their jurisdiction, the **Ministerial Decree of 21 July 1998**<sup>122</sup> lays down general rules for the taking of bivalve mollusks. The holder of a license that authorizes the fishing of bivalve mollusks is required, by the fifth day of every month, to report to the regional management commission catch data in the form set out in Annex A (Article 4.1). A proportion of undersized bivalve mollusks is tolerated, provided that it does not exceed 10% of the total catch (Article 3.2).

It provides for a two-month closed season each year for the taking of *vongole*, *fasolari*, *cuori* and *longoni*, to be determined by the regional management commissions, provided that it takes place between April and September (Article 6). With respect to other species of bivalve mollusks, it prohibits fishing:

- from 1 April to 30 September for *cannolicchi* in the Adriatic Sea
- from 1 April to 31 May for *cannolicchi* in the Thyrrhenian Sea
- from 1 April to 30 April for *telline*
- from 1 June to 31 July for *tartufi*

Bivalve mollusk fishing is subject to the following daily catch limits (Article 7):

Species	Daily catch limit (Kg)
<i>Vongole veraci</i>	100
<i>Cannolicchi</i>	300
<i>Tartufi</i> and <i>nocci</i>	100
<i>Fasolari</i>	350
<i>Telline</i>	100
<i>Cozze pelose, mussoli</i> and <i>canestrelli complessivi</i>	300

<sup>121</sup> GURI No. 287 of 7 December 1999, p.45.

<sup>122</sup> GURI No. 180 of 4 August 1998.

The **Ministerial Decree of 21 July 1998** also prescribes the technical characteristics of vessels involved in the bivalve mollusk fishery and that of fishing gear that can be used to fish these species (hydraulic dredges, dredges with diving board and rakes).

#### 11.2.3.3. Sea urchins

The harvesting of sea urchins is governed by the **Ministerial Decree of 12 January 1995**<sup>123</sup>. *Asta a specchio* and rakes are the only gear that can be used for the commercial harvesting of sea urchins. Sea urchins may also be taken manually by professional divers using breathing apparatus and by recreational divers in apnea (Article 1). Daily catch is restricted to 1,000 individuals per commercial fisherman and to 50 individuals per recreational fisherman, provided that no individual is less than 7 cm in diameter (Articles 2 and 3). The taking of sea urchins is prohibited during the months of May and June each year (Article 4).

#### 11.2.3.4. Bluefin tuna (*Thunnus thynnus*)

The **Ministerial Decree of 14 January 1999**<sup>124</sup> requires that every master of a fishing vessel less than 10 m in length keep a logbook in which information indicating the volume and composition of the catch on board, the day and place of operation and the type of fishing gear used is recorded.

#### 11.2.3.5. Lithophagus mollusks

Pursuant to EU regulations<sup>125</sup>, the **Ministerial Decree of 16 October 1998**<sup>126</sup> prohibits the use of pneumatic hammers and other percussive instruments for the collection of *Lithophaga lithophaga* and *Pholas dactylus*.

#### 11.2.4. Sport fishing

The **Ministerial Decree of 7 January 1980** as amended<sup>127</sup> regulates sport and underwater fishing activities. Daily catch from these activities is limited to 5 kg, provided that it includes no more than one stone bass. The use of breathing apparatus of any kind is prohibited. Underwater fishing is only permitted during the daytime.

The harvesting of mussels for recreational purposes is subject to a 3kg daily catch limit (**Ministerial Decree of 10 April 1997**<sup>128</sup>).

#### 11.2.5. Minimum landing size

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<sup>123</sup> GUR/No. 20 of 25 January 1995, p. 8.

<sup>124</sup> GUR/No. 76 of 1 April 1999, p. 15.

<sup>125</sup> See Article 2.2 of Council Regulation (EC) No. 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of the fishery resources in the Mediterranean.

<sup>126</sup> GUR/No. 281 of 1 December 1998.

<sup>127</sup> GUR/No. 11 of 12 January 1980, p. 328.

<sup>128</sup> GUR/No. 127 of 3 June 1997.

Minimum landing sizes for fish, crustaceans and bivalve mollusks are set out in **Presidential Decree No. 1639 of 2 October 1968**<sup>129</sup> implementing the basic fisheries legislation. It was amended by the **Ministerial Decree of 3 August 1982**<sup>130</sup> modifying the minimum size of several species of fish as follows.

It was further amended by the **Ministerial Decree of 4 August 1982**<sup>131</sup> providing that any individual specimen of *Pecten Jacobeus* less than 10 cm must be deemed undersized.

**Ministerial Decree No. 250 of 5 June 1987**<sup>132</sup> provides for the minimum landing sizes of five additional species.

Decree	Species	Minimum size (cm)
<b>Ministerial Decree of 3 August 1982</b>	<i>Solea vulgaris</i>	15
	<i>Merluccius merluccius</i>	11
	<i>Mullus sp.</i>	9
<b>Ministerial Decree of 4 August 1982</b>	<i>Pecten jacobeus</i>	10
<b>Ministerial Decree No. 250 of 5 June 1987</b>	<i>Ephinephelus sp. and Polyporion americanum</i>	45
	<i>Sparus auratus</i>	20
	<i>Gobiuos ophiocephalus</i>	12
	<i>Platichis fleus</i>	15
	<i>Mugil sp.</i>	20

Undersized specimens of fish, mollusk or crustacean that are caught must be immediately returned to their natural environment, unless they account for less than 10% of total catch<sup>133</sup>.

### 11.2.6. Underwater fishing

Commercial underwater fishing is regulated by the **Ministerial Decree of 20 October 1986** as amended<sup>134</sup>. In order to be granted an authorization, applicants must satisfy both the qualification and physical requirements set out in the Decree and be more than 18 but less than 40 years of age (Article 4). Chiefs of maritime districts are empowered to establish within the limit of their jurisdiction and upon approval of local consultative commissions:

<sup>129</sup> The text of this Presidential Decree was not available.

<sup>130</sup> *GURI* No. 230 of 21 August 1982, p. 5979.

<sup>131</sup> *GURI* No. 230 of 21 August 1982, p. 5979.

<sup>132</sup> *GURI* No. 149 of 29 June 1987, p.6.

<sup>133</sup> Ministerial Decree of 21 April 1983 amending Presidential Decree No. 1639 of 1968 implementing Act No. 963 of 1965 (*GURI* No. 116 of 29 April 1983, p. 3292).

<sup>134</sup> *GURI* No. 280 of 2 December 1986, p. 7.

- the maximum number of authorizations that can be issued in respect of the maritime district
- daily catch limits, and
- the period(s) during which commercial underwater fishing is authorized (Article 8). The use of breathing apparatus for commercial underwater fishing purposes is permitted (Article 9).

### 11.2.7. Protected species

The fishing of cetaceans, turtles and sturgeons is generally prohibited. However, such activities may, subject to certain conditions, be authorized by the competent authority (**Decree of 3 May 1989**<sup>135</sup>).

### 11.2.8. Time restrictions

The taking of lobsters in the maritime district of Gaeta is prohibited from 1 September to 31 March each year (**Decree of 18 March 1992**<sup>136</sup>).

### 11.2.9. Area restrictions

The **Ministerial Decree of 28 October 1993**<sup>137</sup> prohibits the use of bottom trawls equipped with leadlines whose diameter exceeds 40 mm in the Tyrrhenian Sea, excluding the territorial waters off Sardinia and Sicily.

### 11.2.10. Fishing capacity

In 1999, the General Director for fisheries and aquaculture issued a Decree authorizing owners of deep-sea fishing enterprises to increase their fishing capacity within the maximum limit of 200% through the building or purchase of new fishing units (**Decree of 13 January 1999**<sup>138</sup>).

## 11.3. Marine protected areas

**Law No. 394 of 6 December 1991**<sup>139</sup> sets forth the general categories of protected areas that can be established. It includes national parks, regional nature parks and nature reserves. Both national parks and nature reserves may entail marine areas, whereas regional nature parks may extend to stretches of sea adjoining the coast. It should be noted that **Law No. 979 of 31 December 1982**, replaced by **Law No. 394 of 1991**, provides for the creation of marine reserves<sup>140</sup>. **Decree No. 1639 of 2**

<sup>135</sup> *GURI* No. 113 of 17 May 1989, p. 18.

<sup>136</sup> *GURI* No. 78 of 2 April 1992, p.5.

<sup>137</sup> *GURI* No. 258 of 3 November 1993, p.5.

<sup>138</sup> *GURI* No. 76 of 1 April 1999.

<sup>139</sup> *GURI* suppl. No. 292 of 13 December 1991.

<sup>140</sup> Law No. 394 of 1991 does not abrogate Law No. 979 of 1982 in its entirety, as issues not explicitly addressed under the new legislation remain governed by the relevant provisions of the

**October 1968** implementing the basic fisheries legislation provides for establishing zones of biological protection, where fishing activities may be restricted or prohibited.

Two national parks comprising marine areas have been established. The Tuscan Archipelago was designated as a national park by the **Decree of 21 July 1989**<sup>141</sup> issued by the Minister of the Environment. It comprises 7 islands and rocky islets and stretches of water surrounding some of the islands. Fishing activities are restricted throughout the area.

The Maddalena Archipelago National Park was established by **Law No. 10 of 4 January 1994**<sup>142</sup>. The park includes the islands and islets located in the territory of the municipality of La Maddalena, as well as the surrounding marine areas within a distance of at least 1 km from the coast. The marine area is divided into two zones. In the zone of integral protection, fishing activities, whether commercial or recreational, are strictly prohibited. In the other zone, fishing is allowed subject to certain conditions. The use of trawl nets and driftnets not exceeding 1 km in length is permitted.

Since 1986, seven sites have been designated as marine reserves, namely the Island of Ustica<sup>143</sup>, Miramare in the Gulf of Trieste<sup>144</sup>, the Tremeti Islands<sup>145</sup>, the Ciclopi Islands<sup>146</sup>, Torre Guaceto<sup>147</sup>, Capo Rizzuto<sup>148</sup>, and the Egadi Islands<sup>149</sup>. With the exception of the Miramare Marine Reserve, all marine reserves are divided into zones of protection. Typically, fishing is prohibited in zones of integral protection and subject to more or less stringent conditions in other areas.

Zones of biological protection are primarily designed to protect the spawning grounds of marine species of economic importance or to allow overfished stocks in certain areas to be replenished. Since 1971, a number of zones of biological protection have been established in Italy's internal and territorial waters, namely in the waters contiguous to Portoferraio<sup>150</sup>, Santa Maria di Castellabate<sup>151</sup>, Tor Paterno<sup>152</sup>, the Island

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previous legislation (Scovazzi, *Marine Specially Protected Areas*, in *International Environmental Law and Policy Series*, Vol. No. 52, 1999).

<sup>141</sup> GURI No. 177 of 31 July 1989.

<sup>142</sup> GURI No. 6 of 10 January 1994.

<sup>143</sup> The marine reserve of the Island of Ustica, located about 30 nautical miles from northern Sicily, was established by the Decree of 12 November 1986 (GURI No. 71 of 26 March 1987).

<sup>144</sup> Miramare in the Gulf of Trieste was designated a marine reserve by the Decree of 12 November 1986 (GURI No. 77 of 2 April 1987).

<sup>145</sup> The marine reserve of Tremeti Islands, an archipelago situated in the southern Adriatic Sea, was established by the Decree of 14 July 1989 (GURI No. 295 of 19 December 1989).

<sup>146</sup> The Ciclopi Islands, located in the Ionian Sea, were designated a marine reserve by the Decree of 7 December 1989 (GURI No. 86 of 12 April 1990).

<sup>147</sup> The marine reserve of Torre Guaceto, located in the southern Adriatic Sea, was established by the Decree of 4 December 1991 (GURI No. 115 of 19 May 1992).

<sup>148</sup> The marine reserve of Capo Rizzuto in the Ionian Sea was established by the Decree of 27 December 1991 (GURI No. 115 of 19 May 1992).

<sup>149</sup> The marine reserve of Egadi Islands, within the province of Trapani, Sicily, was established by the Decree of 27 December 1991 (GURI No. 115 of 19 May 1992).

<sup>150</sup> Decree of 10 August 1971 (GURI No. 278 of 3 November 1971).

<sup>151</sup> Decree of 25 August 1972 (GURI No. 253 of 27 September 1972).

of Pianosa<sup>153</sup>, Potenza Picena<sup>154</sup>, Banco di Santa Croce<sup>155</sup>, and Ravenna<sup>156</sup>. It is interesting to note that Italian law provides for establishing zones of biological protection beyond the Italian territorial sea on the high seas<sup>157</sup>. This provision was used to create a zone of biological protection covering a stretch of water in the vicinity of the island of Lampedusa in an area claimed by Tunisia. Another zone of biological protection was established to preserve cetaceans, covering a vast area of the Ligurian Sea, encompassing areas of the high seas, Italy's territorial sea and the territorial seas of both France and Monaco. The Governments of Italy, France and Monaco have entered into negotiations in order to establish an international marine protected area.

#### 11.4. Comments

In order to ensure the sustainable utilization of the fishery resources occurring within their waters, the competent Italian authorities have adopted a wide range of conservation and management measures forming a comprehensive regulatory framework. A vast network of marine protected areas, where fishing activities are prohibited or restricted, was established to conserve and protect marine living resources and their habitats throughout Italian waters. Transferring the regulatory powers in the field of fisheries from the central administration to the regions is likely to improve the day-to-day management of local fisheries. However, due to sketchy information on local fisheries regulations, it was impossible to assess whether the local regulations were satisfactory throughout the maritime districts.

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<sup>152</sup> Decree of 20 August 1988 and Decree of 4 August 1993 (*GURI* No. 214 of 12 September 1988 and *GURI* No. 193 of 18 August 1993).

<sup>153</sup> Decree of 6 September 1989 (*GURI* No. 213 of 12 September 1989).

<sup>154</sup> Decree of 21 August 1991 (*GURI* No. 199 of 26 August 1991).

<sup>155</sup> Decree of 15 June 1993 (*GURI* No. 144 of 22 June 1993).

<sup>156</sup> Decree of 21 July 1995 and Decree of 5 November 1996 (*GURI* No. 203 of 31 August 1995 and *GURI* No. 302 of 27 December 1996).

<sup>157</sup> Decree of 24 September 1979 (*GURI* No. 275 of 8 October 1979).

## 12. LEBANON

The analysis of the Lebanese fisheries regulatory framework below is incomplete, since the basic fisheries legislation and regulations were not made available to the author for the purpose of this study.

### 12.1. Licensing

It could not be determined whether or not a licensing system has been established in Lebanon.

### 12.2. Conservation and management measures

#### 12.2.1. Fishing gear

The use of sardine and *chinchilla* nets is prohibited within 1 km of the Lebanese coast. While it is not permitted to use sardine nets at depths of less than 20 fathoms when fishing with light devices intended to attract fish, the use of chinchilla nets at depths of less than 25 fathoms is strictly forbidden. Use of this gear is not authorized from 1 July to 31 August and from 1 January to 31 March each year. The minimum mesh sizes for *chinchilla* and sardine nets are 8 mm and 6 mm respectively (**Resolution No. 43/1 of 29 March 1999** as amended by **Resolution No. 78/1 of 29 June 1999**)<sup>158</sup>.

Use of dragnets is prohibited within 1 km of the coast and near spawning grounds. It is not permitted to use dragnets at depths of less than 35 fathoms and during a two-month period from 1 July to 31 August. Their mesh size should not be less than 20 mm (**Resolution No. 291/1 of 23 November 1998**)<sup>159</sup>.

#### 12.2.2. Sport fishing

While fishing under water, no person is allowed to (**Resolution No. 42/1 of 24 March 1999**)<sup>160</sup>:

- take sponges
- catch lobsters with spear guns
- fish during night hours.

<sup>158</sup> *Official Gazette* No. 16 of 1 April 1999, p. 907 and *Official Gazette* No. 32 of 8 July 1999 p. 1998.

<sup>159</sup> *Official Gazette* No. 54 of 3 December 1998, p. 4961.

<sup>160</sup> *Official Gazette* No. 16 of 1 April 1999, p. 905.

### 12.2.3. Protected species

The catching of turtles, whales and seals is strictly prohibited throughout Lebanese territorial waters (**Resolution No. 279/1 of 19 November 1998 and Resolution No. 125/1 of 23 September 1999**)<sup>161</sup>.

Recognizing that sponges were threatened with extinction and thus needed adequate protection, the Minister responsible for marine fisheries issued **Resolution No. 281/1 of 19 November 1998** prohibiting the taking of sponges within Lebanese territorial waters for a 5-year period<sup>162</sup>.

### 12.2.4. Time restrictions

In November 1998, the Minister responsible for marine fisheries issued a resolution prohibiting until 15 May 2000 the use of trawl nets within Lebanese territorial waters (**Resolution No. 280/1 of 19 November 1998**)<sup>163</sup>. This decision was suspended in September 1999, when it was decided that trawling could resume in this area provided that trawl nets conformed to the technical requirements set out in Resolution No. 2775 of 28 September 1929<sup>164</sup> (**Resolution No. 122/1 of 21 September 1999**)<sup>165</sup>.

## 12.3. Marine protected areas

At least two protected areas that included marine areas have been established in Lebanon<sup>166</sup>. **Law No. 121 of 9 March 1992** designated the Rabbit Islands as a nature reserve. This comprises three main islands, i.e. Palm Island, Sanani Island and Ramkin Island, and the surrounding marine areas. On 5 November 1998, **Law No. 708** was enacted, creating a protected area in the zone Jeftlik Ras Alain<sup>167</sup>. It includes a band of marine water.

## 12.4. Comments

No conclusions can be drawn from the fragmentary information available.

<sup>161</sup> *Official Gazette* No. 54 of 3 December 1998, p. 4956 and *Official Gazette* No. 46 of 30 September 1999, p.2724.

<sup>162</sup> *Official Gazette* No. 54 of 3 December 1998, p. 4957.

<sup>163</sup> *Official Gazette* No. 54 of 3 December 1998, p. 4957.

<sup>164</sup> This resolution was not made available to the author.

<sup>165</sup> *Official Gazette* No. 45 of 23 July 1999, p. 2689.

<sup>166</sup> Incomplete information did not enable the author to determine the legal basis for the creation of marine protected areas.

<sup>167</sup> *Official Gazette* No. 151 of 12 November 1998, p. 4521.

## 13. LIBYA<sup>168</sup>

The Libyan fisheries legal framework rests primarily on **Law No. 14 of 3 June 1989**, which is the basic fisheries legislation, and two sets of implementing regulations, namely **Resolution No. 71 of 9 April 1990** and **Resolution No. 80 of 9 August 1991**.

### 13.1. Licensing

**Law No. 14 of 1989** establishes a licensing system that provides that no fishing vessel, whether national or foreign, may operate within Libyan territorial waters without having first obtained a license. Licenses are issued for a 3-year period, renewable.

### 13.2. Conservation and management measures

The use of explosive, poisonous, or toxic substances for fishing purposes is strictly prohibited throughout Libyan territorial waters (**Article 15 of Law No. 14 of 1989**).

**Resolution No. 80 of 1991** laying down technical measures for the conservation and management of fishery resources, determines the technical characteristics of fishing vessels, the list of authorized gear and equipment, net specifications, and the minimum landing sizes of commercial species of fish and other aquatic organism. It also regulates the taking of sponges.

### 13.3. Marine protected areas

Legislation of national parks was declared by **General Popular Committee (Minister Council) No. 631/1992**. This regulation defines and lists the objectives of natural reserves and national parks. Three coastal zones are protected: the National Park of El Kouf; the National Park of Garabulli; the Nature Reserve of New Hisha (C/V).

### 13.4. Comments

No conclusions can be drawn from the fragmentary information available.

<sup>168</sup> Information on the Libyan fisheries regulatory framework relies exclusively on the abstracts of laws and regulations contained in FAOLEX.

## 14. MALTA

Malta's fisheries legislation rests principally on two basic pieces of legislation and regulation, the **Fisheries Conservation and Management Act, 4<sup>th</sup> June 2001 (Act II of 2001)**, and **Government Notice No. 206 of 25 May 1934 as amended**<sup>169</sup>.

### **The Fisheries Conservation and Management Act - Act II of 2001**

#### **14.1. Record of local fishing vessels**

There is a record of local fishing vessels (including captains, owners and crew) and thus owners of fishing vessels have to apply to the Director for registration of the fishing vessel.

To be on the record the vessel has to:

- be registered under the Merchant Shipping Act
- carry identification markings and comply with other requirements as may be prescribed.

If this is not done, the Director may refuse or cancel an entry.

Subject to the above, the entry certificate is valid for one year and is renewable.

#### **14.2. Licensing**

The Fisheries Conservation and Management Act states that no local fishing vessel is to be used for commercial fishing<sup>170</sup> (in the fishing zone or outside) unless it is entered in the record of fishing vessels and thus authorised by a license or permit granted under this act.

If found guilty of a contravention, the master, the charterer and the owner are each guilty of an offence and are liable to a fine.

Moreover, the Minister may require owners of fishing vessels who wish to fish to apply to the Director for a permit.

##### **14.2.1. Foreign fishing vessels**

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<sup>169</sup> Government Notice 206 of 25 May 1934 as amended by Fishery (Amendment) Regulations of 6 November 1962, Fishery (Amendment) Regulations of 17 April 1964 (L.N. No. 19 of 1964), Fishery (Amendment) Regulations of 1978 (L. N. 80 of 1978) and Fishery (Amendment) Regulations of 1979 (L.N. 58 of 1979) and 154 of 1993.

<sup>170</sup> 'Commercial fishing' means the catching or taking of fish for sale

Fishing by a foreign fishing vessel is prohibited unless authorised by a license granted under this Act.

If found guilty of a contravention, the master, the charterer and the owner are each guilty of an offence and are liable to a fine.

Furthermore, the master of the foreign fishing vessel that has fish on board has:

- prior to entry of the vessel into the fishing water<sup>171</sup>
  - prior to leaving the fishing waters
- to notify the Fisheries Protection Officer of the amount, description and presentation of the fish on board. If he is guilty of a contravention of the above, the master will be subject to a fine.

#### **14.2.2. Licensing requirements and conditions relating to local and foreign vessels**

Licensing may authorise fishing in general or may be limited to an area, a period, time or particular voyage, method of fishing, description, quantity, size and presentation of the fish which may be taken.

Moreover, a license may contain the following conditions as regards:

- lading of fish caught
- marking of the licensed vessel
- records of the fishing operations
- navigation equipment
- places of transshipment.

If he does not respect the above, a fine will be imposed on the master, the owner or the charterer of the fishing vessel.

The license may be varied, revoked or suspended by the Director (who in his turn cannot be prohibited by a court from exercising his powers).

#### **14.2.3. Stowing of gear**

When a fishing vessel is in a prohibited area or has a particular license to fish only certain species, then the particular fishing gear that is not allowed has to be stowed in a 'not readily available' manner.

#### **14.2.4. Statistical information**

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<sup>171</sup> Malta's 'fishing waters' comprise:

- a) internal waters
- b) territorial waters under the Territorial Waters and Contiguous Zone Act [Article 3(2)]

and

- c) any other marine waters over which Malta has sovereign rights.

The Director may, prior to enrolling the vessel in the fishing records, or prior to delivering a fishing license, require from the owner, master or charterer statistical information concerning fishing, as he deems necessary.

#### **14.2.5. Transshipment and export of fish**

The Minister may by regulations provide for the licensing of the above and may consider the areas, times and number of transshipments and the quantities of fish in the transshipment.

#### **14.2.6. Special arrangements**

##### **14.2.6.1. Fisheries research permits**

For the purposes of scientific research, the Minister (in consultation with the Director and the Fisheries Board) may grant a permit to the owner, master or charterer of the fishing vessel. Although the holder of the above permit is exempt from the provisions of this Act, he has to submit a report of his operations to the Director (on demand) and the vessel will be subject to inspection. Conditions may be specified in the permit, and the Minister can revoke this permit or its conditions.

##### **14.2.6.2. Fisheries access agreements**

The Minister (after consulting the Fisheries Board) may enter into negotiations with other states/associations representing foreign vessel owners, providing for the allocation of fishing licenses to the foreign vessels.

### **14.3. Conservation and management measures**

#### **14.3.1. Powers of the Fisheries Protection Officer<sup>172</sup>**

The Fisheries Protection Officer has the power to stop the vessel or stop the fishing, to request and examine records of fish caught and any other documentation, to request explanations, and he may search, examine or enquire, as he deems necessary. If the person has committed any offence, the Fisheries Protection Officer may detain him in Malta and take him to court.

The Fisheries Protection Officer can also immobilise and seize any fishing vessel, together with the gear, crew, stores, cargo, fish and fish products and documents with respect to fishing vessels or any vessel that is fishing in the fishing waters (irrespective of whether or not it is engaged in fishing).

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<sup>172</sup> For the purposes of this Act, Fisheries Officers are:

- persons designated as Fisheries Officers by the Director
- all members of the Armed Forces of Malta and the Malta Police Force.

Obstructing Fisheries Officers, and giving false information, is against the law. Any fish found on board (unless it is proved to the contrary) will be assumed to have been caught in the fishing waters.

### **14.3.2. Powers of entry and search**

Moreover the Fisheries Officer may at any time enter (without a warrant, with or without assistance<sup>173</sup>) the premises (with the exception of dwelling premises) used for carrying on the business in connection with fishing, and he may also search and open baggage packs and other equipment.

Article 21 also gives powers to the Fisheries Protection Officer and the Convention Fisheries Officer<sup>174</sup> to enforce conventions.

The Fisheries Protection Officer will not be contradicted in the process of exercising the powers of this Act.

Where there has been the seizure or otherwise of the vessel or the equipment etc. , the owner may apply to the court to rule on the charge involved in the event of the vessel's and/or equipment's being released.

The seized fish or other perishables shall be disposed of by sale at public auction (and the proceeds of the sale deposited with the court - if court proceedings are instituted) or returned to the owner on receiving security

### **14.3.3. Monitoring system**

The Minister has the power to establish a satellite system to monitor the position of fishing vessels.

### **14.3.4. Power to make regulations**

Regulations may be made to provide for the following:

- anything which is to be prescribed by this Act
- 'the conservation, management and protection of fish resources, including the establishing of closed areas and closed seasons, limits on the sizes and amounts of fish, mesh sizes of nets, control and use of types of fishing gear, the control and prohibition of methods of fishing and the protection of fish stocks and their habitats from the actual or potential effects of pollution'
- establishing and managing marine areas to preserve fish stocks
- licensing and regulating fishing
- the quota or total allowable catch for any fish

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<sup>173</sup> 'If he has reasonable grounds for offence'.

<sup>174</sup> This person has powers given by either the government or another country 'to enforce a convention to which Malta is a party and which provides the safeguarding or conduct of fishing operations' or ancillary operations.

- monitoring the exploitation of coral and sponge resources
- protecting turtles, dolphins and other aquatic animals
- regulating the importing and exporting of fish, fry etc. and quality standards
- issuing a code of practice for the maintenance and operation of aquaculture establishments
- monitoring the landing, transportation and handling of fish
- the payment of fees for permits, licenses etc.
- appointing local agents for foreign fishing vessels
- placing observers on fishing vessels
- regulating any satellite-based monitoring system
- monitoring public slipways.

Subsidiary legislation since made by any provisos of the Fish Industry Act, repealed by Act II f of 2001 (**Fisheries Conservation and Management Act**), or under the Code of Police Laws, shall continue in force until other provisions are made under the **Fisheries Conservation and Management Act**.

#### 14.3.5. Aquaculture

Setting up installations and aquaculture operations is only permitted with an aquaculture permit, granted by the Director under the Fisheries Conservation and Management Act upon consultation with the Chairmen of the Planning Authority and the Malta Maritime Authority.

The aquaculture permit is not transferable; it confers the right to harvest products for aquaculture. It may also be subject to conditions as deemed necessary, e.g. siting design and materials used, health conditions of the fish, measures to prevent the fish escaping and to prevent disease, as well as commercial provisions relating to marketing.

#### 14.3.6. Fishing gear

**Government Notice No. 206 of 1934** draws up a list of authorised fishing implements and methods that can be used at any time and in all locations without a fishing license:

- all methods of hook and line, including jigging with *gulpara* and *]iel*
- fish spears or grains
- basket traps known locally as *drajna*, *nassi tal-gran`*, *nassi tal-qarnit*, *nassi tal-imrejjen*
- small hand nets known locally as *kopp tal-gambli*, *kopp tal-wi``*, *kopp tal-la``i*, *kopp tal-lhud*, and
- all other minor and recognised fishing implements such as *delfinara*, *gan`* and *gaffa*.

##### 14.3.6.1. Seine nets (*tartarun*)

The use of seine nets is prohibited within bays and creeks and where the water is turbid. However, special temporary permits (amended by L.N. 58 of 1979) may be granted for the use of such nets within the prohibited areas for the purpose of catching migratory fish, provided the net is less than 25.5 millimetres square.

The mesh size of seine nets must not be less than 8.5 mm measured when the net is wet (Section 13).

#### **14.3.6.2. Shrimp dredges**

Shrimp dredges need a license and must not be longer than 3.10 m; their mesh size must be at least 6.5 mm<sup>2</sup>. The use of this implement is permitted from 1 November to 31 January and outside localities where the use of seine nets is prohibited (Section 18).

#### **14.3.6.3. Long pole nets (*kopp tal-last*)**

This type of fishing needs a license. The minimum mesh size for long pole nets is 6.5 mm<sup>2</sup>. It is subject to the conditions laid down for shrimp dredges.

#### **Cast nets (*terrielis*)**

The use of cast nets is not permitted inside bays and harbours and the mesh size must be at least 25.5 mm<sup>2</sup>.

#### **14.3.6.4. Trammels and gilling nets**

Trammel and gillnets may not be used from 15 February to 15 July each year in those localities where the use of seine nets is prohibited. In the grand harbour and Marsamxett harbours, the use of these implements is prohibited at all times. However, special permits for the use of these nets within the prohibited areas may be granted when shoals of mature anchovies, sardines, mackerels, bonitos or other pelagic fish appear.

The use of basket traps other than those mentioned in the above Section is not permitted within bays and harbours if the mesh size is less than 25.5 mm wide.

It is also illegal to use or keep the implement known as *hanzir*, or *hgiega* without a license.

#### **14.3.6.5. Grapplers**

The use of grapplers (*imqass*) for raising bivalves is only permitted under the same conditions as are imposed for dredging mollusks.

### **14.3.7. Fishing methods**

#### **14.3.7.1. Trawling**

It is not lawful for any vessel to shoot or tow any kind of net, nor is towing between two vessels (*paranze*) permitted (**Section 12 of Government Notice No. 206 of 1934**).

The fishing positions used in the *kannizzati* fishery must be allocated each year by lot under such conditions as the competent authority may see fit to impose. Laying floats for this method of fishing is subject to a license (**Section 24 of Government Notice No. 206 of 1934**).

Dredging for mollusks is prohibited, except in sections of the Valletta harbour (**Section 39 of Government Notice No. 206 of 1934**).

Fishing for sponges is subject to license (**Section 45 of Government Notice No. 206 of 1934**).

#### Tunny nets

Permission may be granted to lay tunny nets round the coasts of Malta under conditions deemed fit by the Director. He may subsequently not allow fishing in the locality where a tunny net is set (Subsidiary Legislation 10.12).

Subject to license, the following sites are available for the laying of tunny nets:

- Melliela
- ~irkewwa and Id-Delli
- Glajn Tuffiela and {nejna.

Any other site is subject to an application to be addressed to the Director.

#### 14.3.7.2. Sponge fishing

This is only allowed under such conditions as the Director may see fit to impose; no operations may be carried on without a license.

The use and/or possession of poison and/or noxious substances and explosives for the purposes of killing, catching, stunning or disabling fish<sup>175</sup> is against the law and any person doing so is liable to a penalty, as established in the Explosives Ordinance.

Moreover even if fish that is believed to have been taken by the above methods is possessed or sold, the person who does so is liable to a fine.

#### 14.3.7.3. Area restrictions

In **Article 8 of Government Notice No. 206 of 1934**, the fishing and collecting of marine products is strictly prohibited:

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<sup>175</sup> Any aquatic animal including shellfish, crustaceans, sponges, sea-urchins, turtles, aquatic mammals and their young, fry, eggs or spawn.

- near the sewage outfall at Wied Ghammieq, within areas demarcated on land
- in the dockyard creek, or
- in the French creek
- without a special license issued by the Director with the approval of the Prime Minister.

Fishing with lights is not permitted within bays and harbours (**Section 46 of Government Notice No. 206 of 1934**).

#### 14.3.7.4. Ormeggios

The Director is empowered by Article 33 of S.L. 10.12 to grant licenses to fish in reserved sites (*irmigg*)

#### 14.3.7.5. Minimum landing sizes

The minimum landing sizes of the following species of fish are regulated:

Species	Minimum landing size (mm)
<i>Boops boops</i> and <i>Smaris vulgaris</i>	90
<i>Mullus barbatus</i> , <i>Mullus sarmuletus</i> and squid	100
Cuttlefish	75
All other fish <sup>176</sup>	115

According to Subsidiary Legislation 10.12, it is illegal to display for sale, land, or be in possession of any bivalves except for stone borers, which are smaller than the gauge established for each species by the Director.

The following are the size limits shown on the gauge:

Species	Legal size
<i>Ostrea lamellosa</i> ( <i>koccli</i> )	4
<i>Venus verrucosa</i> ( <i>gandoffli</i> )	3
<i>Dosinia exoleta</i> ( <i>dajni</i> )	3
<i>Tapes decussatus</i> ( <i>arzelli nigri</i> )	2
<i>Cardium rusticum</i> ( <i>arzelli tal-Marsa</i> )	1
<i>Tapes aureus</i> ( <i>arzelli trapanis</i> )	1
<i>Cardita sulcata</i> ( <i>lewz</i> )	2
<i>Cardium paucicostatum</i> ( <i>lewz tal-qoxra rqiqa</i> )	2

<sup>176</sup> Except for *goby* (*makku*) and *whitebait* (*srajdna* and *nemusa*), for which no size limit is prescribed (Section 36 of Government Notice No. 206 of 1934).

<i>Psanmobia vespartina (imxat)</i>	1
<i>Mytilus galloprovincialis (maskli)</i>	3

### 14.3.8

The following species are protected in Maltese law:

Scientific name	Maltese name	English	Current legislation under EPD
<b>Fucophyta</b>			
<i>Cystoseira amentacea</i>	Cistosejra kahla	Rainbow bladder weed	LN 161/1999
<i>Cystoseira mediterrane</i>	Cistosejra	Sea fir	LN 161/1999
<i>Cystoseira spinosa s.l</i>	Cistosejra	Sea fir	LN 161/1999
<b>Rhodophyta</b>			
<i>Gonolithon byssoides</i>	Litofillum	Stone weed	LN 161/1999
<i>Lithophyllum licheoides</i>	Litofillum	Stone weed	LN 161/1999
<b>Porifera</b>			
<i>Petrobonia massiliana</i>	Sponza iebসা	Sponge	LN 161/1999
<b>Cnidaria</b>			
<i>Antipathes spp</i>	Qroll iswed	Black coral	LN 161/1999
<i>Astroides calycularis</i>	Qroll tad dell	Star coral	LN 161/1999
<i>Cladocora cacspitosa</i>	Qroll abjad	Stone /white coral	LN 161/1999
<i>Corallium rubrum</i>	Qroll ahmar	Precious/red/sardinian coral	LN 161/1999
<b>Mollusca</b>			
<i>Charonia rubicunda</i>	Bronja tal fond	Knobbed triton shell	LN 161/1999
<i>Charonia tritonis</i>	Bronja tal midhna	Variiegated triton shell	LN 161/1999
<i>Dendropoma petraeum</i>	Bubbuxu tal blat	Vermetid snail	LN 161/1999
<i>Erosaria spurca</i>	Bahbuha ttigrata	Spotted cowrie/porcelaine juan	LN 161/1999
<i>Gibbula nivosa</i>	Gibbula ta malta	Maltese top shell	LN 161/1999
<i>Lampedusa melitensis</i>	Dussies tsl irdum	Maltese door snail	LN 161/1999
<i>Lithophaga lithophaga</i>	Tamra /tamla	Date mussel	LN 161/1999
<i>Luria lurida</i>	Bahbuha tal ghajnejn	Brown cowrie/ Mediterranean cowrie	LN 161/1999
<i>Mitra zonata</i>	Siggarru	Fusiform	LN 161/1999
<i>Pholas dactylus</i>	Tamra bajda	Common piddock	LN 161/1999
<i>Pinna nobilis</i>	Nakkra tal harira	Fan mussel/noble pen shell	LN 161/1999
<i>Ranella olearia</i>	Bronja	Oil vessel triton	LN 161/1999
<i>Schilderia achatide</i>	Bahbuha	Agate cowrie	LN 161/1999
<i>Tonna galea</i>	Tina tal bahar	Giant tun/Mediterranean tun shell	LN 161/1999
<i>Zonaria pyrum</i>	Bahbuha hamra	Pear cowrie /porcelain	LN 161/1999

		shell	
<b>Echinodermata</b>			
<i>Centrostephanus longispinus</i>	Rizza tax xewk twal	Needle spined sea urchin	LN 161/1999
<i>Ophidiaster ophidianus</i>	Stilla tal bahar/salib il bahar hamra	Violet starfish	LN 161/1999
<b>Elasmobranchii</b>			
<i>Carcharodon carcharias</i>	Kelb il bhar	Grand requin blanc	LN 161/1999
<i>Cetorhinus maximus</i>	Pixxitonnu	Pèlerin	LN 161/1999
<i>Mobular mobular</i>	Baqra/manta/raja tal qrun	Mante méditerranéenne	LN 161/1999
<b>Actinopterygii</b>			
<i>Aphanius fasciatus</i>	Buzaqq	Maltese killifish	LN 161/1999
<i>Hippocampus hippocampus</i>	Ziemel tal bahar	Short nosed sea horse	LN 161/1999
<i>Hippocampus ramulosus</i>	Ziemel tal bahar	Long nosed sea hose	LN 161/1999
<b>Reptilia</b>			
<i>Dermochelys coriacea</i>	Fekruna sewda	Tortue-luth	LN 076/1992
<i>Caretta caretta</i>	Fekruna	Cacouanne	LN 076/1992
<i>Chelonia mydas</i>	Fekruna hadranija	Tortue verte	LN 076/1992
<b>Cetacea</b>			
<i>Balaenoptera acutorostrata</i>	Balena zghira	Petit rorqual	LN 214/2000
<i>Balaenoptera borealis</i>	Balena	Rorqual de rudolphi	LN 214/2000
<i>Balaenoptera physalus</i>	Balena kbira	Rorqual commun	LN 214/2000
<i>Delphinus delphis</i>	Denfil kommuni	Dauphin Commun	LN 214/2000
<i>Eubalaena glacialis</i>	Balena	Northern right whale	LN 214/2000
<i>Globicephala melas</i> = <i>Globicephala meleana</i>	Balena sewda	Globicéphale noir	LN 214/2000
<i>Grampus griseus</i>	Denfil tarisso	Dauphin de risso	LN 214/2000
<i>Kogia simus</i>	Balena	Dwarf sperm whale	LN 214/2000
<i>Megaptera novaengliae</i>	Balena	Jubarte	LN 214/2000
<i>Mesoplodon densirostris</i>	Balena ta blainvillel	Baleine bécune	LN 214/2000
<i>Orcinus orca</i>	Oka	Orque	LN 214/2000
<i>Phocoena phocoena</i>	Denfil iswed	Marsouin	LN 214/2000
<i>Physeter macrocephalus</i> = <i>Physeter catodon</i>	Gabdoll	Cachalot	LN 214/2000
<i>Pseudorca crassidens</i>	Pseudorka	Faux-orque	LN 214/2000
<i>Sousa chinensis</i>	Denfil	Indo pacific humpback dolphin	LN 214/2000
<i>Stenella coeruleoalba</i>	Denfil stenella	Dauphin bleu et blanc	LN 214/2000
<i>Steno bredanensis</i>	Denfil tat tikki	Dauphin à bec étroit	LN 214/2000
<i>Tursiops truncatus</i>	Denfil geddumu qasir	Grand dauphin	LN 214/2000
<i>Ziphius cavirostris</i>	Balena ta kuvier	Baleine bécune de cuvier	LN 214/2000
<b>Pinnipedia</b>			
<i>Monachus monachus</i>	Bumerin/foka/monka	Mediterranean monk seal	LN 214/2000

## 14.4. Marine protected areas

**The Environment Protection Act, 2001 (Act No. XX of 2001)** provides the legal basis for (Article 4):

- managing the environment in a sustainable way by also giving it due consideration in decisions on socio-economic and other policies
- taking preventive and remedial measures to abate pollution and environmental degradation in accordance with the 'polluter pays' principle and the precautionary principle
- safeguarding biological diversity
- considering the environment as a common heritage and a common concern
- providing incentives for greater environmental protection.

The Authority<sup>177</sup> shall (Article 7 b):

- seek cooperation or arrangements with other entities or persons to enable it to better monitor the implementing of this act
- establish long- and short-term objectives and strategies (taking into consideration the recommendations made by the National Commission for Sustainable Development)
- advise the Minister on environmental standards, guidelines and the making of regulations, and framing and implementing contingency and emergency plans to safeguard the environment
- deem it necessary to control and manage activities that have an impact on the environment
- monitor the quality of the environment.

It is the duty of the Authority to (Article 7 c) ensure that such Environmental Impact Assessments as may be prescribed are properly carried out.

In relation to the protection of biodiversity [Article 9 (k)], it shall:

- provide for the monitoring and management thereof
- declare any species a protected species and establish rules for its protection
- declare any species invasive and establish rules for controlling it
- regulate the trade in, and the transit, import and export of flora and fauna.

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<sup>177</sup> 'Authority' means the competent authority nominated by the Minister under Article 6 of this Act.

Article 6 (of Act No. XX of 2001) provides that the Minister by Order in the Gazette shall 'nominate a person to be the competent Authority for the purposes of this Act, to carry out the functions of the competent Authority under this Act, and to perform such other functions as the Minister may consider appropriate in relation to the operation of this Act. Such a person or body shall be nominated for such a period as the Minister may determine.'

#### **14.4.1. Protected areas**

The Authority shall:

- declare any areas or sites on land or in territorial waters to be protected areas, provide for their protection and regulate their management
- provide for the conservation, protection and management of particular habitats
- control any activity that may interfere with the conservation of biodiversity
- regulate the use, release etc. of genetically modified organisms [Article 9 (l)].

#### **14.4.2. Analysis of marine protected areas (proposals)**

Although no marine protected area has been created to date in Maltese territory, through the provisions of Local Notice to Mariners No. 16 of 1987 and Government Notice 473 of 1987, since no fishing and any other activity was permitted, the sea around Filfla (1 nautical mile) effectively functioned as a strict marine nature reserve. But this legal Notice was revoked in 1990 and fishing was again permitted. Thus, for 3 years this marine area acted as a marine reserve.

Moreover, a number of localities of conservation value (including coastal areas) were identified back in 1987 for the Environment Protection Department as localities of conservation value. Subsequently, in 1994, 26 marine sites were 'recommended to be declared as (Marine) Nature Reserves<sup>2</sup> (protected areas) in terms of paragraph 32 of the 'old' Environment Protection Act, 1991 without specifying the type' (as categorised in the IUCN standard categories). In this report, another set of 17 sites was also proposed as coastal protected areas. This document was framed with the assistance of the RAC/SPA Centre. And two reports were actually presented, one dealing with scientific aspects (Schembri, 1994) and the other with legal aspects (Scovazzi, 1994).

A committee was set up by the Environment Protection Department to start declaring marine nature reserves.

The above-mentioned sites were also further recommended 'to be declared as candidate Marine Conservation Areas in terms of Policy MCO 1 of the Malta Structure Plan unless already so designated' (Schembri, 1994).

Successively, 14 sites were proposed as marine conservation areas within the Structure Plan elaborated in 1990, since marine areas can also be protected under the Development Planning Act (Act No. I of 1992). However the Structure Plan does not give protection to the candidate MCAs and to date not a single marine area has been scheduled, primarily because the latter authority is concerned with development planning and management for the whole of Malta.

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<sup>2</sup> 'Nature Reserves' has been used here since this is the specified terminology used in the 1991 Environment Protection Act and has a different meaning from the internationally-used terminology. In the 2001 Environment Protection Act, via Article 9 k (iv), the term 'protected areas' is specified.

## 15. MONACO

In 1998, the Monacan legislature enacted **Law No. 1198 establishing a Maritime Code**<sup>178</sup> that replaces **Ordinance of 2 July 1908**, hitherto the basic fisheries legislation in Monaco. Articles L 244-1 to 244-10 lay down the general principles governing fisheries in the territorial waters of Monaco.

### 15.1. Licensing

The Convention delimiting the maritime boundaries between France and Monaco, signed in Paris on 16 February 1984<sup>179</sup>, recognizes the historic fishing rights of both French and Monacan local fishermen to the traditional fishing grounds located in the area being delimited. As a result both French and Monacan fishermen are allowed to pursue their operations within Monaco's territorial waters and the adjacent sea areas under French jurisdiction. **The Maritime Code of 1998** recognizes the freedom of fishing within Monacan territorial waters, provided that the fishing vessels operating therein comply with the technical measures laid down in the fisheries regulations.

### 15.2. Conservation and management measures

**The Maritime Code of 1998** prohibits the use of explosives, drugs, firearms, or electric shockers in fishing operations (Article L. 244-3). It also provides that a sovereign ordinance will determine the technical characteristics, and conditions of use, of fishing gear, as well as the fishing methods prohibited. In the meantime, the relevant provisions of the **Ordinance of 2 July 1908** remain in force. They notably prohibit the use, complicity in the use, and possession of drifting gillnets and pelagic trawls throughout Monaco's territorial waters.

A list of protected marine species has been established by Ordinance texts on the base of the Ordinance of 2 July 1908 and includes marine mammals, groupers, and brown meagre (*Corvina nigra*). It stipulates that marine mammals that are caught incidentally must be immediately released.

### 15.3. Marine protected areas

**Article 4 of the Convention of 1984** delimiting the maritime boundaries between France and Monaco provides that both Parties may establish nature reserves or marine protected areas within their territorial waters.

<sup>178</sup> Loi du 27 mars 1998 portant Code de la Mer.

<sup>179</sup> Sovereign Ordinance No. 8403 of 30 September 1985 (*OJ* of 11 October 1985).

Pursuant to these provisions, Monaco has created two marine protected areas. The first one, the Lavotto Nature Reserve covering a 50-hectare area, was established in 1978<sup>180</sup>. Fishing activities are prohibited throughout the reserve. The second, the Red Coral Nature Reserve, was established in 1986 to ensure the conservation of the red coral<sup>181</sup>. It is the smallest marine protected area in the Mediterranean, covering a surface area of only 1 hectare. Fishing with a boat, underwater fishing and setting of fish traps are forbidden throughout the area except for commercial fishermen who have special permission.

#### 15.4. Comments

The fact that Monaco does not require a license for vessels to operate within its waters should not be regarded as a major shortcoming. Indeed, it should be kept in mind that Monaco's territorial waters cover a very small surface area of sea water and that fishing operations therein are subject to other conditions, such as fishing gear restrictions and prohibitions, protected areas and prohibited fishing methods. Finally, it could not be established whether the recently-enacted Maritime Code incorporated provisions dealing with catch reporting and fishing effort.

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<sup>180</sup> Sovereign Ordinance No. 6256 of 25 April 1978.

<sup>181</sup> Sovereign Ordinance No. 8681 of 19 August 1986.

## 16. MOROCCO

The legal framework for Moroccan fishing rests on the **Dahir** enacting **Law No. 1-73-255 of 23 November 1973(1)**, which remains the basic fishing law(2), as modified and supplemented by an array of regulatory measures. The 1973 Law has made fishing activities subject to the following conditions and restrictions:

### 16.1. Licensing

**Law No. 1-73-255 of 1973** establishes a licensing system that applies to every vessel, whether national or foreign, operating within waters under Moroccan sovereignty or jurisdiction. A fishing licence is valid for a maximum period of one year (Article 2).

**Decree No. 92-2-1026 of 29 December 1992(3)** laying down the conditions and procedures governing the granting and renewal of fishing licences, specifies that a fishing licence is only valid for the vessel for which it has been delivered, and for the zone and species specified therein (Article 2).

While underwater fishing is subject to a special permit, fishing with nets alongside the shore without using a boat (*pêche à pied*) requires the prior declaration of such an undertaking to the head of the competent maritime district (**Articles 4 and 5 of Law No. 1-73-255 of 1973**).

### 16.2. Conservation and management measures

#### 16.2.1. Area restrictions

As a general rule, fishing is prohibited:

- in areas exploited by the state or where exclusive fishing rights have been granted
- in buffer zones surrounding fixed structures such as *madragues* (stationary uncovered pound nets)
- in port areas unless hooks and lines are being used, provided that each line be fitted with no more than 2 hooks (**Article 6 of Law No. 1-73-255 of 1973**).

#### 16.2.2. Restricting fishing access

Moroccan regulations restrict the developing of the fisheries sector in several ways:

- by freezing investment for developing coastal fishing and deep-sea fishing (Circular No. 3887 of 18/8/1992)
- by a five-year freeze on permits to acquire cephalopod-fishing vessels or for the renewing of units immobilized before August 1992, with a view to restructuring the cephalopod fisheries sector (Circular No. 6309 of 30/12/1993)
- by a selective redefining of the system whereby permits are granted for converting and replacing fishing vessels, with a view to limiting the fishing effort and provoking a redeployment and modernizing of the fleet (Circular No. 8215 of 15/10/1997).

### 16.2.3. Regulating fishing gear

#### 16.2.3.1. Trawl nets

Nets are put into three distinct categories, namely fixed nets, surface-set nets and trawl nets (**Article 11 of Law No. 1-73-255 of 1973**).

Use of trawl nets equipped with a double bag and/or whose mesh size is less than 70 mm is prohibited. Furthermore, these nets should not be used within 3 miles of the coast (**Article 15 of Law No. 1-73-255 of 1973**).

**Circular No. 5060 of 30 October 1992** reiterates that trawl nets must not be used within 3 miles of the coast in Moroccan territorial waters located in the Mediterranean and specifies that the mesh size of such nets when used in the Mediterranean must not be less than 40 mm.

**Order No. 369-98 of 5 March 1998** prohibits trawl nets whose netting yarn is more than 4 mm in diameter.

#### 16.2.3.2. Surrounding nets

An **Order of 23 April 1934** regulating the use of surrounding nets (*cerco*) in Morocco's territorial waters lays down the maximum length and height of such nets:

- 200 m in length and 30 m in height for sardine fishing
- 260 m in length and 45 m in height (but not less than 30 m in height) for *scombre* fishing, including bonito and mackerel (Article 2).

This Order was modified by **Decree No. 2-58-848 of 16 July 1958** prohibiting the use of surrounding nets (*cerco*) in Moroccan territorial waters by fishing vessels exceeding 40 GRT.

#### 16.2.3.3. Fixed nets

**Decree No. 2-73-659 of 2 February 1974**(4) determines the technical features of fixed nets and the conditions of their use. No person must set any fixed net without first obtaining permission from the competent authority. Such a permit is valid for one year (Article 6).

With regard to trammel nets, it prohibits:

- the use of trammel nets whose mesh size is less than 70 mm for the inside panel and less than 200 mm for outside panels (wet net)
- the use of trammel nets exceeding 250 m in length
- the setting of trammel nets less than 200 m from each other (parallel to the coast) and less than 100 m from each other (at right angles to the coast)
- the setting of trammel nets at night during the shad fishing season (from 1 November to 31 March of each year) in the estuary of the Sebou and the Bou-Regreg and Loukkos rivers
- the setting of more than one trammel net a day per vessel, and
- the use of trammel nets by vessels of over 15 GRT (Article 3).

With regard to gillnets, it prohibits:

- the use of gillnets whose mesh size is less than 70 mm (wet net)
- the use of gillnets exceeding 200 m in length and 30 m in width
- the setting of gillnets by vessels other than those specifically fitted for this type of fishing
- the setting of gillnets less than 200 m from each other (parallel to the coast) and within a distance less than 100 m (at right angles to the coast) (Article 5).

**Order No. 2-395-94 of 1 September 1994**(5) prohibits fishing with monofilament nets.

#### **16.2.3.4. Drift-nets**

As regards trammel drift-nets: Firstly, Moroccan regulations started by likening trammel drift-nets to prohibited gear seeing that the texts had nothing to say about them. Later, various restrictions were introduced as regards minimum mesh, set at 40 mm, and maximum development of the net, set at 2.5 km. (**Circular No. 1232 of 11/3/1991**), the use of such a net having to end on 31/3/1992 (**Circular No. 6299 of 18/1/1992**), this deadline being extended up to 31/12/1992 (**Circular No. 2374 of 12/5/1992**).

Furthermore, use of the trammel drift-net for swordfish was regulated as follows (**Circular No. 5458 of 20/11/1992**): total length of net must not exceed 2.5 km, with the fishing and unloading of any swordfish weighing less than 25 kg being forbidden, as is the catching of any protected species (turtles, marine mammals, etc.), swordfish fishing being allowed in two areas.

#### **16.2.4. Fishing methods**

It is forbidden to keep on board a fishing vessel and knowingly use toxic substances designed to poison or weaken aquatic organisms (**Articles 17 and 18 of Law No. 1-73-255 of 1973**).

It is forbidden to keep on board a fishing vessel and use any firearms or explosive substance, unless authorized to do so by the competent authority (**Article 20 of Law No. 1-73-255 of 1973**).

**Decree No. 259-0075 of 19 June 1962**(6) regulates fishing with lights (*pêche au feu*). It is divided into two sections according to geographical area. Provisions of the first section apply to the Moroccan territorial waters in the Mediterranean. Fishing with lights is a collective fishing method involving a group of vessels carrying a maximum 3 light-boats each. Each light-boat is in turn authorized to be equipped with a maximum 3 lamps of 3000 watts so that the combined lighting capacity of the group of vessels does not exceed 27,000 watts (Article 3). Lamps must only be lit in the fishing ground (Article 4). Net dimensions must not exceed 200 m in length and 30 m in height. The minimum mesh size of these nets is restricted to 15 mm (wet net). In addition, this type of net should not be used at depths of less than 40 m (Articles 6 and 7). Fishing with lights is generally allowed throughout the year from 9 p.m. to 4 a.m. in summer and 8 p.m. to 5 a.m. in winter (Article 9).

Underwater fishing is regulated by **Decree No. 2-61-227 of 5 July 1962**(7). This activity is authorized throughout the year, from sunrise to sunset, provided that it does not take place within 100 m of any fixed fishing gear or any fishing vessel and less than 50 m from beaches and swimming areas (Article 1). Use of breathing apparatus of any kind is strictly prohibited. The Decree also prescribes the technical features of authorized spear guns (Article 2).

#### **16.2.5. Protected species**

The taking of berried lobster females is strictly prohibited throughout Moroccan waters (**Article 7 of Law No. 1-73-255 of 1973**).

#### **16.2.6. Reporting**

**Decree No. 2-92-1026 of 29 December 1992** stipulates that licence-holders are required to communicate, at least once a year, information relating to the fishing activities of the fishing vessel for which the licence was delivered (Article 2).

#### **16.2.7. Minimum unloading sizes:**

**Order No. 1154-88 of 3 October 1988** (8), modified by **Order No. 352-89 of 2/2/1989** and by **Order No. 652-92 of 1/10/1993**, sets out the minimum unloading size of commercial species of fish, crustaceans, shellfish and molluscs found in Moroccan waters. It stipulates that it is generally prohibited to fish undersized individuals. However, it specifies that for some species small quantities of undersized individuals are tolerated. Species whose minimum unloading size is regulated appear in the following table:

Species	Scientific name	Market size	Mensuration norms
<b>FISH</b>			
Bass or sea perch	<i>Dicentrarchus labrax</i>	17 cm	Length at fork
Spotted bass	<i>Dicentrarchus punctatus</i>	15 cm	Idem
Conger	<i>Conger conger</i>	55 cm	Total length
Chinchard or scad	<i>Trachurus trachurus</i>	14 cm	Length at fork
Dentex	<i>Decanterus rhonchus</i>	14 cm	Idem
Dentex	<i>Dentex sp.</i>	12 cm	Idem
Gurnard	<i>Trigla chelidoni</i>	14 cm	Total length
White hake	<i>Merluccius merluccius</i>	20 cm	Total length
Black hake	<i>Merluccius senegalensis</i>	20 cm	Idem
Mullet	<i>Chelon sp mugil sp liza sp</i>	14 cm	Idem
Gilt-head	<i>Sparus aurata</i>	15 cm	Length at fork
White or silver pageot	<i>Pagellus acarne</i>	14 cm	Idem
Red pageot	<i>Pagellus erythrinus</i>	14 cm	Idem
	<i>Pagellus coupei</i>	14 cm	Idem
	<i>Pagellus bogaraveo</i>	14 cm	Idem
Pagre	<i>Sparus pagrus</i>	14 cm	Idem
Red mullet	<i>Mullus barbatus</i>	11 cm	Total length
	<i>Mullus surmeletus</i>	11 cm	
Sea bream	<i>Sparus sargus</i>	14 cm	Length at fork
	<i>Sparus caeruleosticus</i>	14 cm	Idem
	<i>Diplodus cervinus</i>	14 cm	Idem
Sargus	<i>Diplodus vulgaris</i>	14 cm	Idem
	<i>Diplodus annularis</i>	14 cm	Idem
Sole	<i>Solea vulgaris</i>	14 cm	Total length
	<i>Solea senegalensis</i>	14 cm	Idem
Langue	<i>Cynoglossus canariensis</i>	14 cm	Idem
Turbot	<i>Psetta maxima</i>	23 cm	Total length
	<i>Scophthalmus</i>	23 cm	Idem
	<i>Rhombus</i>		
Sardine	<i>Sardina pilchardus</i>	Maximum number of units per kilogram	
Mackerel	<i>Scomber scombrus</i>	50	
	<i>Scomber japonica</i>	20	
Anchovy	<i>Engraulis encrasicolus</i>	20	
Red tuna	<i>Thunnus thynnus</i>	70	
Albacore	<i>Thunnus albacares</i>	6.5 kg	
Fat tuna	<i>Thunnus obesus</i>	3.2 kg	
Swordfish	<i>Xiphias gladius</i>	3.2 kg	
		25 kg or 125 cm	Length at fork
<b>CRUSTACEANS</b>			

Lobster	<i>Homarus gammarus</i>	17 cm	Length of thorax measured from rostrum to tip of tail
Red crayfish	<i>Palinurus elephas</i>	17 cm	
Pink crayfish	<i>Palinurus mauritanicus</i>	17 cm	
Green crayfish	<i>Palinurus regius</i>	15 cm	
III. SHELLFISH		Size in cm.	
Amande de mer	<i>Clycymeris</i>	4 cm	
Cockle	<i>Cardium sp.</i>	3 cm	
Mussel	<i>Mytilus galloprovincialis</i>	4 cm	
Sea urchin	<i>Paracentrotus levidus</i>	3 cm	
Clam	<i>Tapes decussata</i>	3 cm	
Clam	<i>Venus verrucosa</i>	3 cm	
Vernis	<i>Meretix chione</i>	4 cm	
Venus-shell	<i>Venus galina</i>	2 cm	
<b>CEPHALOPODS</b>			
Octopus	<i>Octopus vulgaris</i>	500 g	Individual weight before evisceration
Cuttlefish	<i>Sepia officinalis</i>	100 g	Individual weight not eviscerated
	<i>Sepia orbignyana</i>	100 g	
	<i>Sepia berthiloti</i>	100 g	
Squid	<i>Loligo vulgaris</i>	10 cm	Length measured from eyes to tip of caudal fin

It must however be made clear that in response to requests coming from professional cephalopod-fishing associations, and because fishing for immature individuals is technically very difficult to avoid, two types of measuring have been added to the above regulations: setting a maximum tolerance threshold of 7.5% of overall tonnage of the monitored species, and restricting monitoring to species of cephalopod whose tonnage is over 25% of overall catch.

#### 16.2.8. Restrictions as to time

Banning the fishing of cephalopods and demersal species between 1 March and 30 April and between 1 September and 31 October of each year in maritime areas lying between the parallels of Tarfaya and of Lagouira (**Order No. 955-92 of 16/6/1992**).

Banning the fishing of the monk seal, of marine mammals, of cephalopods, of demersal species, of pelagic species, of shellfish and of crustaceans from 26 October 1993 to 25 October 1999 inside a 12-mile coastal area lying between the parallels 21°23'N and 20°54'N, and the fishing of cephalopods and demersal species between 11 and 30 August inside a 12-mile area lying between the parallels of Lagouira and Boujdour, and similarly of sardine, anchovy, mackerel, sardelle, chinchard and swordfish for one entire year, which will be renewed for three years, in a 15-mile area lying

between the parallels 25° and 24° (**Orders No. 2134-93 of 26/10/1993 and Nos. 1636 and 2015 of 7/8/1998**).

Banning the fishing of grouper between 1 July and 31 August of each year throughout the territorial waters located along the Mediterranean coasts (**Order No. 1534-95 of 15/6/1995**).

Banning the fishing of shad along the littoral and in the mouths of rivers for two years from 5/12/1996 (**Order No. 21-63-96 of 11/11/1996**).

Banning the fishing and collecting of clams every year between 1 July and 30 September on the Mediterranean coast up to the parallel of Tarfaya and from 1 June to 30 November on the Atlantic coast between the parallels of Tarfaya and Lagouira, and of seaweed on the Atlantic coast between 1 October and 30 June of the following year, and of every kind of shellfish on the Mediterranean coast lying between Ras El Targa and Ras Assouad from 16/3/1994 and for a duration of six months, this period having been extended up to 31/12/1994 (**Orders No. 1676-98 of 12/8/1998, No. 1-118-93 of 1/10/1993, No. 220-94 of 24/1/1994 and No. 2247-94 of 9/8/1994**).

Banning the fishing of lobster and crayfish between 1 October and 1 February of the following year (Dahir enacting **Law No. 1-37-255 of 23/11/1973**).

### 16.3. Marine protected areas

To date Moroccan legislation only provides for the creation of national parks. This situation may rapidly change as studies aiming at implementing the creation of a network of protected areas covering all types of ecosystem and habitat in the kingdom have recognized the need to introduce other types of protected area such as nature reserves and nature parks. Although it does not explicitly mention that national parks may extend to marine sectors, the **Law of 11 September 1934** on national parks has nonetheless been used to create the Al Hoceima National Park, which extends to marine areas in the Atlantic Ocean. As far as could be established, no protected marine area has been created in the Mediterranean.

### 16.4. Comments

Although it combines a wide range of conservation and management measures forming a fairly complete and generally satisfactory framework to regulate fishing, Moroccan fishing regulation is at the present time very uncoordinated, very complex to grasp, and thus very difficult for professionals to implement, given the impressive number of extremely sketchy, incomplete and not always homogeneous regulatory texts (decrees, orders and circulars) that have accumulated on the basis of **Law No. 1-73-255 of 23/11/1973**. This means that the whole package would gain in clarity and coherence if it were reorganized and brought up to date by adopting new basic fishing

laws The need to bring the now outdated Law No. 1-73-255 of 1973 up to date has long been recognized by the Moroccan Government, given that several fishing bills have been prepared over the past few years.

## 17. SLOVENIA

The Slovenian fisheries legislation still rests principally on the **Law on marine fisheries from 1976** (former Yugoslavia), on the **Regulation of commercial and sport fishing** adopted by the Slovenian Parliament in **1977** and on the **Decree on marine fisheries** adopted by the three coastal municipalities in 1987. A new law on marine fisheries is bound to be adopted within 2002. According to that the present data should be updated before the end of 2002.

### 17.1. Licensing

There is no limit on the number, or duration, of permits for commercial fishing. As for sport fishing, a yearly permit is needed for fishing from boats, while fishing from the shore is free.

### 17.2. Conservation and management measures

#### 17.2.1. Fishing gear

The Regulation on commercial and sport fishing (amended several times since its adoption) sets out a list of the authorised fishing gear and equipment that can be used in commercial fishing operations, and defines the rules for their use.

#### 17.2.2. Minimum fish size

The **Decree on the protection of juvenile fish and other marine animals from 1977** states the minimum catch size for 40 fish species, 3 species of crayfish and 5 species of clams.

#### 17.2.3. Protected species

In 1993 the Slovenian Parliament adopted the Decree on the protection of endangered animal species, which also includes several marine species:

*Porifera* (all species - hereafter a.s.),  
*Turbellaria* (a.s.),  
*Nemertina* (a.s.),  
*Cnidaria* (*Cerianthus membranaceus*, *Cladocora caespitosa*, *Parazoanthus* sp.,  
*Epizoanthus* sp., *Alcyonium* sp., *Eunicella* sp.),  
*Mollusca* (*Astrea rugosa*, *Mitra zonata*, *Cassidaria echinophora*, *Opisthobranchia* sp., *Pinna nobilis*, *Lithophaga lithophaga*, *Lima lima*, *Lima inflata*),  
*Polychaeta* (*Spirographis spallanzani*, *Serpula vermicularis*, *Eunice aphroditois*),  
*Sipunculida* (a.s.),

*Echiurida* (a.s.),  
*Crustacea* (*Astacus gammarus*, *Dromia vulgaris*, *Upogebia litoralis*, *Pilumnus hirtellus*,  
*Pachygrapsus marmoratus*, *Maia squinado*, *Maia verrucosa*, *Inachus dorsettensis*,  
*Macropodia longirostris*, *Macropodia rostrata*, *Pinnotheres pinnotheres*, *Eryphia*  
*spinifrons*, *Lissa* ssp., *Pisa* ssp., *Limbrus* ssp., *Galathea* ssp.),  
*Bryozoa* (*Retepora beaniana*)  
*Brachipoda* (a.s.),  
*Echinodermata* (*Antedon mediterranea*, *Spatangus purpureus*, *Anseropoda placenta*,  
*Marthasterias glacialis*),  
*Enteropneusta* (a.s.),  
*Acrania* (*Brachiostoma lanceollatum*),  
*Tunicata* (a.s.),  
*Cyclostomata* (*Myxine glutinosa*),  
*Pisces* (*Cetorhinus maximus*, *Hippocampus guttulatus*, *Johnius umbra*, *Lepadogaster*  
*gouani*, *Mola mola*, *Syngnatus* ssp., *Nerophis ophidion*),  
*Chelonia* (a.s.),  
*Cetacea* (a.s.).

### 17.3. Marine and coastal protected areas

There are six protected areas:

- 1) the Seèovlje salt-works landscape park, Ramsar site from 1993 (coastal - 864 ha)
- 2) the Cape Madona natural monument (marine – 12.8 ha)
- 3) the Strunjan Nature reserve (marine and coastal - 160 ha)
- 4) the Štjuž a lagoon (coastal – 15.3 ha)
- 5) the Debeli Rtiè natural monument (marine and coastal – 24.3 ha)
- 6) and the Škocjanski Zatok nature reserve (coastal wetland).

Protection of the only *Posidonia oceanica* meadow was proposed in 1994, but no legal act has yet been passed.

Together with the above-mentioned protected areas two fisheries reserves were instituted with the Decree on marine fisheries from 1987.

### 17.4. Comments

As stated previously, new marine fisheries legislation is bound to be adopted within the framework of Slovenia's joining the European Union. According to that, a complete update of the present data should be made in the near future.

## 18. SPAIN

As a Member of the European Union, Spain is subject to the CFP and EU fisheries regulations (see section 7 above). The Kingdom of Spain is divided into Autonomous Communities (*Comunidades Autonomas*). The sharing of powers between the Central Government and the Autonomous Communities is governed by the Constitution. It recognizes that the state (Central Government) has exclusive competence in the field of marine fisheries with respect to external waters, whereas the Autonomous Communities are responsible for managing marine fisheries within their internal waters (Articles 148 and 149)<sup>182</sup>.

As far as can be established, it appears that Spain has not hitherto enacted basic fisheries legislation. However, an initiative has been taken to remedy the situation, since the Council of Ministers has recently approved a draft marine fisheries bill.

It should be noted that in 1997 Spain declared a protected fishing zone in the Mediterranean, extending 49 miles seaward measured from the baselines, in which it claims sovereign rights over the marine living resources occurring therein (**Royal Decree No. 1315 of 1 August 1997**)<sup>183</sup>.

### 18.1. Licensing

**Royal Decree No. 681 of 28 March 1980**<sup>184</sup> provides that no Spanish fishing vessel is allowed to operate outside waters under Spanish sovereignty or jurisdiction without having acquired a temporary fishing permit. Such a permit authorizes the vessel for which it has been issued to fish in specified area/s and for a period not exceeding one year (Articles 4 and 6).

**Royal Decree No. 71 of 23 January 1998**<sup>185</sup> requires that all fishing vessels flying the Spanish flag that target tuna and similar species in the Mediterranean Sea, whether in waters under Spanish jurisdiction or sovereignty or on the high seas, be properly licensed (Article 13).

<sup>182</sup> The transfer of competences from the Central Government to the Autonomous Communities was made in conformity with the procedures laid down in Article 143 of the Constitution. Specific Royal Decrees were issued for the transfer of competence in the field of marine fisheries with respect to each coastal Autonomous Community.

<sup>183</sup> Boletín Oficial del Estado (BOE) No. 204 of 26 August 1997. This Royal Decree was amended by Royal Decree No. 431/2000 of 31 March 2000.

<sup>184</sup> BOE No. 92/1980 of 16 April 1980.

<sup>185</sup> BOE No. 33/1998 of 7 February 1998.

## 18.2. Conservation and management measures

Recognizing the need to control the fishing effort in order to ensure the rational utilization of marine living resources, **Royal Decree No. 681 of 1980** empowers the competent authority to take all necessary measures to reach that goal and, notably, to:

- establish the maximum number of vessels (and corresponding total tonnage) authorized to operate in each fishery
- determine fishing vessels' engine power (total and per vessel)
- regulate fishing gear, implements and other equipment
- determine the number of days at sea
- determine prohibited fishing methods, closed seasons, and prohibited fishing areas (Article 3).

### 18.2.1. Fishing effort

In 1994, the Minister responsible for fisheries issued an order to restrict the fishing effort in relation to the anchovy fishery in the Gulf of Leon<sup>186</sup>. It provided that no boats other than those registered as using surrounding nets and those registered as using drag nets in the Mediterranean area would be, from the date this order was issued, authorized to have access to the anchovy fishery in the Gulf of Leon.

### 18.2.2. Artificial reefs

The installing of artificial reefs in waters under Spanish jurisdiction or sovereignty is subject to permission from the competent authorities (Article 4 of **Order of 11 May 1982**<sup>187</sup>).

### 18.2.3. Special fisheries

#### 18.2.3.1. Coral

Coral fishing in waters under Spanish jurisdiction or sovereignty is subject to a special permit (**Royal Decree of 12 December 1984 and Order of 15 March 1985**).

#### 18.2.3.2. Tuna and similar species

**Royal Decree No. 71 of 23 January 1998** regulates the taking of tuna and similar species by vessels flying the Spanish flag in the Mediterranean Sea. This decree was adopted pursuant to the recommendation made by ICCAT in 1994 that provided that Member States had to take all measures necessary to ensure a 25% reduction in the production of tuna and similar species in the Mediterranean by the end of 1998.

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<sup>186</sup> Order of 29 July 1994 (BOE No. 186/1994 of 5 August 1994).

<sup>187</sup> BOE No. 125/1982 of 26 May 1982.

The provisions of this Royal Decree apply to the taking of five species of fish, i.e. *Thunnus thynnus* (bluefin tuna), *Auxis spp.*, *Sarda sarda*, *Thunnus alalunga*, *Euthynnus alleteratus* (Article 2).

It contains technical and management measures:

#### **18.2.3.3. Technical measures**

It draws up a list of the fishing gear that can lawfully be used to catch these species, which entails four different types of fishing gear: pound nets and similar gear, gillnets, purse seines, and fishing gear fitted with hooks (Article 3).

Fishing by means of pound nets remains unchanged and continues to be regulated in accordance with the regulations laid down in the **Royal Decree of 4 July 1924** (Article 4).

The maximum length of gillnets is restricted to 2,500 m and their mesh size must not be less than 50 mm. It is forbidden to fish any *Xiphias gladius*, *Thunnus thynnus*, *Thunnus alalunga* or *marrajo* with this type of net (Article 5).

The taking of *Thunnus thynnus* using purse seines is subject to the following technical measures:

- the power of the vessels involved in this type of fishing must not exceed 1,800 Hp
- purse seines must not exceed 1,800 m in length and 250 m in height, measured between the top and bottom lines
- the minimum mesh sizes of purse seine must not be less than 120 mm (Article 6).

No fishing gear fitted with hooks other than surface set longline, handline, trolling line, and pole-line with live bait should be used to take the above-mentioned species. Minimum hook sizes are regulated and set in relation to the targeted species (Article 7).

Tuna fishing is prohibited at depths of less than 50 m except by means of pound nets and similar gear (Article 8).

If deemed necessary, and after consultation with the competent scientific authority, the Minister responsible for fisheries may establish seasonal closures for this type of fishing (Article 9).

#### **18.2.3.4. Management measures**

The Royal Decree empowers the competent authority to limit the fishing effort by establishing a day-at-sea program, set a TAC and determine individual fishing quotas (Articles 11 and 12).

Masters of fishing vessels participating in the tuna and similar species fishery are required to submit to the fisheries management authority information on their fishing activities by the 15<sup>th</sup> of every month (Article 16).

#### 18.2.4. Fishing gear

##### 18.2.4.1. Bottom set longlines

**Royal Decree No. 1724 of 28 December 1990**<sup>188</sup> regulates fishing by means of bottom set longlines in the Mediterranean. The use of such type of gear is restricted to vessels exceeding 9 m in length, measured between the perpendiculars, and recorded in the third list of the fishing vessel register (Article 4). This activity is authorized throughout the year unless closed seasons are declared by the Ministry responsible for fisheries. This administration may also delimit areas where fishing by means of bottom set longlines is the only fishing method permitted (Article 6). No vessel may keep on board or use bottom set longlines exceeding 7,000 m in length and fitted with more than 3,000 hooks (Article 7). Longlines cannot be set more than once a day. Fishing trips are restricted to a 24-hour period where the fishing area is located within 60 miles of the home port and may exceed such a period where the fishing area is located further away (Article 10). An increase in the fishing effort is contingent upon the approval of the Oceanographic Institute (Article 2). The Ministry responsible for fisheries may subject every authorized vessel to daily catch limits (Article 17). Fishing rights authorizing a vessel to fish with bottom set longlines are not transferable to another vessel, except when such a vessel has been damaged in an accident and cannot be repaired, or when such a vessel is to be replaced by a new vessel of similar tonnage and engine power (Article 13).

##### 18.2.4.2. Surface set longlines

The **Order of 8 March 1999**<sup>189</sup> regulates the use of surface set longlines by vessels flying the Spanish flag that operate in the Mediterranean Sea, whether in waters under Spanish jurisdiction or sovereignty or on the high seas (Article 1).

The length of longlines and the number of hooks with which they can be fitted vary in relation to the targeted species as follows:

- longlines used for the taking of *palometa*, *melva*, *bonito*, *atun blanco* and *bacoreta* must not exceed 25,000 m in length and must not be fitted with more than 10,000 hooks
- longlines used for the taking of *pez espada* and *marrajo* must not exceed 60,000 m in length and must not be fitted with more than 2,000 hooks (Article 3).

Size of hooks is also laid down in relation to the targeted species (Article 4).

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<sup>188</sup> BOE No. 4/1991 of 4 January 1991.

<sup>189</sup> BOE No. 65/1999 of 17 March 1999.

It is forbidden for vessels that are authorized to fish by means of surface set longlines to keep on board and use any other type of fishing gear simultaneously (Article 5).

The fishing effort is limited to a maximum 20 days at sea per month and per vessel (Article 9).

#### 18.2.4.3. Driftnets

The **Order of 22 October 1990 as amended**<sup>190</sup> prohibits the use of driftnets in waters under Spanish jurisdiction or sovereignty, except in the Mediterranean<sup>191</sup>. In this area, the use of driftnets is subject to the following restrictions:

- the mesh size of driftnets used for the catching of *melva*, *bonito* and *afines* must not be less than 150 mm
- driftnets must not be longer than 1,500 m (Article 4)
- No gillnets of any kind must be used for the catching of *swordfish*, *tuna*, *bonito* and *marrajo* (Article 5).

#### 18.2.4.4. Dragnets

The **Royal Decree No. 1440 of 10 September 1999**<sup>192</sup> regulates the use of bottom dragnets by vessels flying the Spanish flag in the Mediterranean Sea, whether in waters under the jurisdiction or sovereignty of Spain or on the high seas.

In order to be authorized to use bottom dragnets in the Mediterranean, fishing vessels must satisfy the following requirements:

- be registered in the fishing vessel register and recorded as using such type of gear in respect of the Mediterranean Sea
- have obtained a license authorizing the use of dragnets, and
- conform to the technical characteristics laid down in this Royal Decree (Article 3).

To be eligible to carry out fishing operations using bottom dragnets in the Mediterranean Sea, fishing vessels must:

- be more than 12 m and less than 24 m in length, measured between the perpendiculars, and
- have a total engine power less than 500 Hp (Article 8).

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<sup>190</sup> BOE No. 255/1990 of 24 October 1990. This order was amended by the Order of 28 February 1991 (BOE No. 56/1991 of 6 March 1991 and the Order of 12 June 1992 (BOE No. 155/1992 of 29 June 1992).

<sup>191</sup> Note that EU Member States have agreed to ban the use of all kind of driftnets in the waters under their jurisdiction or sovereignty by 1 January 2002. As an EU Member State, Spain will have to comply with this decision and modify this order accordingly.

<sup>192</sup> BOE No. 251/1999 of 10 September 1999.

Authorized vessels cannot fish for more than 5 days a week and 12 hours per day (Article 9).

It is forbidden to:

- fish using bottom dragnets at depths less than 50 m (Article 10)
- use mid-water trawl and high opening bottom trawl
- use any device resulting in the reduction of mesh sizes
- use bottom dragnets and other fishing gear simultaneously (Article 13).

Mesh sizes must not be less than 40 mm (Article 11).

Temporary use of other fishing gear is subject to authorization by the competent authority (Article 5).

Since January 2000, masters of authorized vessels are required to keep a logbook and fill out a landing/transshipment form in conformity with EU regulations (Article 6).

#### **18.2.4.5. *Mosca and claro***

The **Order of 6 October 1999**<sup>193</sup> prohibits the use of *mosca* and *claro* throughout the waters under Spanish jurisdiction or sovereignty.

#### **18.2.4.6. Surrounding nets**

**Royal Decree No. 2349 of 28 November 1984**<sup>194</sup> regulates the use of surrounding nets throughout the waters under the jurisdiction or sovereignty of Spain.

#### **18.2.4.7. Pound nets**

The **Royal Decree of 4 July 1924** lays down the technical measures for the use of pound nets (*almadraba*) in the waters under the jurisdiction or sovereignty of Spain.

### **18.2.5. Minimum landing size**

**Royal Decree No. 560 of 7 April 1995**<sup>195</sup> sets out minimum landing sizes for species of commercial importance, as summarized in the table below, and prohibits the keeping, transporting and selling of any undersized individuals.

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<sup>193</sup> BOE No. 247/1999 of 15 October 1999.

<sup>194</sup> The text of this Royal Decree was not available.

<sup>195</sup> BOE No. 84/1995 of 8 April 1995.

Species	Minimum landing sizes (cm)
<i>Belone belone</i>	25
<i>Venerupis spp.</i>	2.5
<i>Thunnus thynnus</i>	70 (or 66.4 kg)
<i>Micromesistius poutassou</i>	15
<i>Boops boops</i>	11
<i>Homarus gamarus</i>	24
<i>Engraulis encrasicolus</i>	9
<i>Scomber scombrus</i>	18
<i>Trisopterus minutus capelanus</i>	11
<i>Nephrops norvegicus</i>	7
<i>Polyprion americanus</i>	45
<i>Venus spp.</i>	2.5
<i>Sparus aurata</i>	20
<i>Scomber japonicus</i>	18
<i>Lepidorhombus spp.</i>	15
<i>Trachurus spp.</i>	12
<i>Palinuridae</i>	24
<i>Paneus Kerathurus</i>	10
<i>Solea vulgaris</i>	20
<i>Mugil spp.</i>	16
<i>Dicentrarchus labrax</i>	23
<i>Merluccius merluccius</i>	20
<i>Epinephelus spp.</i>	45
<i>Pagellus spp.</i>	12
<i>Brama brama</i>	16
<i>Pagrus pagrus</i>	18
<i>Xiphias gladius</i>	120
<i>Lophius spp.</i>	30
<i>Sarpa salpa</i>	15
<i>Mullus spp.</i>	11
<i>Sardina pilchardus</i>	11
<i>Diplodus spp.</i>	15
<i>Pecten spp.</i>	10

### 18.2.6. Fishing method

The **Order of 1 September 1997**<sup>196</sup> regulates the lighting capacity of lamps fitted on supporting vessels involved in fishing by means of surrounding nets at night. It provides that no more than 12 bulbs, of a maximum electric potential of 500 volts each, may be fitted on each supporting vessel, provided that the total lighting capacity of each such vessel does not exceed 6,000 volts.

<sup>196</sup> BOE No. 219/1997 of 12 September 1997.

### 18.2.7. Sport fishing

Sport fishing in marine waters under Spanish jurisdiction or sovereignty is regulated by the **Order of 26 February 1999**<sup>197</sup>. Aquatic organisms are placed in three different categories, which correspond to three distinct legal systems. The taking of species listed in Annex II, including corals, bivalve mollusks and crustaceans, is strictly prohibited. The taking of species listed in Annex III, which includes *Thunnus thynnus*, *Xiphias gladius* and *Thunnus alalunga*, is subject to special protection measures, whereas the catching of all other species is subject to ordinary protection measures.

Sport fishing is subject to individual licensing. In addition, any boat used for the taking of species subject to special protection measures is required to be licensed (Article 3).

The Order establishes the list of authorized gear for both surface and underwater fishing:

- no gear other than lines or implements fitted with a maximum of six hooks or two squid jigs per license should be used for surface fishing
- no gear other than hand spears or spears operated by a mechanical device should be used for underwater fishing (Articles 6 and 7).

The minimum landing sizes of fish set out in **Royal Decree No. 560 of 7 April 1995** with respect to commercial fishing activities also apply to sport fishing activities (Article 9).

Sport fishing activities are subject to the following daily catch limits:

- 5 kg per license for the species subject to special measures of protection listed in Annex III
- 5 individuals per license, provided that the total catch per boat does not exceed 20 individuals for any combination of *Thunnus alalunga*, *Thunnus obesus* and *Merluccius merluccius*
- 1 individual, provided that the total catch per boat does not exceed 4 individuals for the other species (Article 4).

License holders or masters of boats are required to report to the competent authority how many of the species listed in Annex III have been caught (Article 8).

It is forbidden to:

- use or keep on board any commercial fishing gear or implement such as longlines and nets
- use any type of device such as lights to attract fish
- use any toxic, noxious or explosive substances for the purpose of catching fish;
- fish underwater after sunset and before sunrise (Article 11).

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<sup>197</sup> BOE No. 53/1999 of 3 March 1999.

### 18.3. Marine protected areas

**Law No. 4 of 27 March 1989** sets forth the general categories of protected areas (parks, natural reserves, natural monuments and protected landscapes) that can be established both on land and in maritime areas under Spanish jurisdiction or sovereignty (Article 10)<sup>198</sup>.

The fisheries legislation provides that certain marine areas may be declared as reserve zones (*zonas de reserva*) in order to allow fish stocks to be replenished (**Article 3 of Royal Decree No. 681 of 1980 and Article 18 of the Order of 11 May 1982**).

The following marine protected areas have been established in the Mediterranean Sea:

- the Cabo de Gata Nature Park and Marine Reserve, covering a total surface area of approximately 26,000 hectares, including 13,000 hectares of marine water
- the Archipelago de Cabrera National Park (Balearic Islands), covering a total surface area of about 10,000 hectares, including 8,000 hectares of marine water
- the Columbretes Nature Park and Marine Reserve, covering a total surface of approximately 5,766 hectares, including 5,723 hectares of marine water
- the Medas Islands Marine Reserve, covering a total surface area of approximately 40 hectares, including 20 hectares of marine water
- the S'Arenal Regional Protected Landscape, covering a total surface area of about 400 hectares
- the Tabarca Marine Reserve, covering a total surface area of 1,463 hectares.

In addition, the island of Menorca (Balearic Islands) has been declared a Biosphere Reserve, with protection extending to the sea area adjacent to the protected core areas.

### 18.4. Comments

As reflected in the table annexed to this study, the Spanish fisheries regulatory framework is generally satisfactory. The forthcoming passing of a basic fisheries law is likely to strengthen the overall coherence of the fisheries legal framework.

<sup>198</sup> Article 10.1 reads as follows: "(A)quellos espacios del territorio nacional, incluidas las aguas continentales, y los espacios marítimos sujetos a la jurisdicción nacional, incluidas la zona económica exclusiva y la plataforma continental, que contengan elementos y sistemas naturales de especial interés o valores naturales sobresalientes, podrán ser declarados protegidos de acuerdo con la regulado en esta Ley."

## 19. SYRIA

The main fisheries legislation in Syria is **Legislative Decree No. 30 of 1964** supplemented by **Resolution No. 460 of 29 March 1965**.

### 19.1. Licensing

Any person who wishes to fish in Syria's territorial waters<sup>199</sup> is required to obtain a fishing permit (Article 4 of Resolution No. 460 of 1965).

### 19.2. Conservation and management measures

#### 19.2.1. Area restrictions

Fishing activities are prohibited within 500 m of any permanent structure. No such activity can be undertaken in port areas, unless special authorization is granted by the competent authority (**Articles 7 and 8 of Resolution No. 460 of 1965**).

Dragnets should not be set within 3 km of fixed nets (**Article 9 of Resolution No. 460 of 1965**).

#### 19.2.2. Time restrictions

The use of dragnets is prohibited from 15 May to 14 September each year throughout Syrian territorial waters (**Resolution No. 1881/W of 29 August 1979**).

#### 19.2.3. Fishing gear

**Resolution No. 460 of 1965** sets out a list of the authorized fishing implements (Article 13). It includes:

- fishing rods
- hooks
- spears
- fishing traps, and
- cages, provided that the mesh sizes are not less than 25 mm for square cages and 35 mm for triangular cages.

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<sup>199</sup> Law No. 37 of 16 August 1981 provides that Syria's territorial waters extend 35 nautical miles out to sea, measured from the baselines.

The use of inflammable material and electric shockers for fishing purposes is prohibited as well as the use of firearms at depths of less than 6 m (**Article 14 of Resolution No. 460 of 1965**).

The mesh sizes of fixed nets must not exceed 25 mm (**Article 11 of Resolution No. 460 of 1965**).

It is forbidden to use dragnets at depths of less than 25 m (**Article 2 of Resolution No. 138/T of 10 September 1978**).

#### **19.2.4. Reporting requirements**

Owners or masters of boats authorized to fish with dragnets are required to provide catch data to the competent authority (**Article 2 of Resolution No. 1552/W of 1989**).

### **19.3. Marine protected areas**

No marine protected area has been identified in Syrian territorial waters.

### **19.4. Comments**

Syrian fisheries legislation is not quite comprehensive enough, since important issues such as the licensing of national vessels that operate outside Syrian waters, the fishing effort, and incidental catch have been ignored in the legislation. If this is not already the case, laws should be passed to provide for the establishing of marine protected areas.

## 20. TUNISIA

The main fisheries legislation is **Law No. 94-13 of 31 January 1994 as amended<sup>200</sup>**.

### 20.1. Licensing

No fishing vessel is allowed to fish within Tunisian waters without having first acquired an authorization to do so. Foreign fishing vessels are not permitted to operate therein unless for research or educational purposes (**Article 4 of Law No. 94-13 of 1994**). Authorizations are issued by the competent authority upon payment of a fee and are subject to certain conditions such as period of validity, authorized fishing method or/and gear and area/s in which fishing operations may be undertaken (**Article 5 of Law No. 94-13 of 1994**).

The establishment of any fixed structure aimed at catching fish within Tunisian waters is subject to the permission of the competent authority. Such permit delimits the area where the structure can be installed and determine the conditions of its use and the fee to be paid. No permit can be issued to foreign legal person or entity (**Articles 23 and 24 of Law No. 94-13 of 1994**).

### 20.2. Conservation and management measures

**Law No. 94-13 of 1994** empowers the competent authority, after consultation with the consultative commission, to determine the characteristics, and conditions on use, of authorized fishing gear (Article 8), draw up a list of prohibited fishing gear (Article 9), and prescribe the periods during which, and areas within which, fishing is prohibited (**Article 7 as modified by Law No. 99-74 of 26 July 1999<sup>201</sup>**).

#### 20.2.1. Fishing methods

It is forbidden throughout Tunisian waters to fish:

- using firearms
- using explosives
- using poisonous or noxious substances
- using fishing lights, except for catching migratory species, and
- using traps or structures erected in river estuaries (Article 10 of Law No. 94-13 of 1994).

Sponge fishing using a diving suit is regulated by the Order of 14 January 1955.

<sup>200</sup> Official Journal of the Republic of Tunisia (*OJRT*) No. 11 of 8 February 1994, p. 227.

<sup>201</sup> *OJRT* No. 61 of 30 July 1999.

### 20.2.2. Fishing capacity

The building and importing of fishing vessels whose GRT exceeds the threshold set by the competent authority are subject to the prior approval of the said authority, which in turn is required to consult the consultative commission. The construction of any fishing vessel for export is exempted from this requirement **(Article 6 of Law No. 94-13 of 1994 as modified by Law No. 99-74 of 1999)**.

### 20.2.3. Protected species

The competent authority is required to draw up a list of aquatic species the taking of which is prohibited throughout Tunisian waters. Where caught, such species must be immediately returned to their natural environment. However, small proportions of such species, to be determined by the competent authority, may be kept and landed **(Articles 13 and 14 of Law No. 94-13 of 1994)**.

### 20.2.4. Time restrictions

In order to allow fish stocks to be replenished in areas where signs of overfishing have been observed, the competent authority may, after consultation with the consultative commission, prohibit any type of fishing in such areas for a maximum period of three months. If deemed inadequate, such a period can be extended for another 3 months **(Article 7 of Law No. 94-13 of 1994 as amended by Law No. 99-74 of 1999)**.

Fishing for octopus is prohibited throughout Tunisian waters from 16 May to 14 October each year **(Article 1 of Order of 1 October 1992<sup>202</sup>)**.

### 20.2.5. Area restrictions

Coral fishing is strictly prohibited in the Bay of Bizerta within a line drawn between Cape Zebib and Cape Blanc. It is also forbidden off the Cani Islands at depths of less than 50 m **(Article 4 of Order of 26 February 1982)**. Elsewhere, coral fishing is subject to special authorization **(Article 1 of Order of 26 February 1982)**.

### 20.2.6. Fishing gear

The use of dragnets (*filets trainants*) of the second category is prohibited throughout Tunisian waters, except for surrounding nets with a purse line **(Order of 26 February 1982)<sup>203</sup>**.

Trawl fishing is regulated by the **Order of 26 May 1973**.

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<sup>202</sup> OJRT No. 69 of 13 October 1992, p. 1366.

<sup>203</sup> OJRT No. 16 of 9 March 1982, p. 579.

### 20.2.7. Minimum landing size

It is forbidden to take octopus weighing less than 800 g, except for species of octopus whose adult weight does not exceed such a weight (**Article 2 of Order of 1 October 1992**).

### 20.2.8. Shrimps

The taking of shrimps in the Gulf of Gabès by means of dragnets (*filets trainants*) of the first category is regulated by the **Order of 16 April 1977**<sup>204</sup> as modified by the **Order of 14 June 1984**<sup>205</sup>.

## 20.3. Marine protected areas

**Law No. 20 of 13 April 1988 on Forestry**<sup>206</sup> provides the legal basis for establishing protected areas in Tunisia.

Three marine areas have been created in Tunisian waters, namely the Galiton Marine Reserve, covering a total surface area of approximately 450 hectares, the natural reserve of the Kneiss Islands, covering a surface area of 5,850 hectares, and the Zembra and Zembretta National Park and Biosphere Reserve, covering a total surface area of about 4,700 hectares, including a 4,309-hectare marine zone.

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<sup>204</sup> OJRT No. 27 of 22 April 1977, p. 1009.

<sup>205</sup> OJRT No. 39 of 22 June 1984, p. 1423.

<sup>206</sup> OJRT No. 30 of 3 May 1988, p. 678.

## 21. TURKEY

The main fisheries legislation in Turkey is **Fisheries Act No. 1380 of 22 March 1971 as amended**<sup>207</sup>. It is supplemented by **Fisheries Regulations No. 22223 of 10 March 1995** and Circulars regulating commercial fishing and sport fishing activities issued on a yearly basis.

### 21.1. Licensing

**Fisheries Act No. 1380 of 1971** establishes a licensing system. Fishing licenses are required for both individual fisherman and fishing vessels (Article 3). Licenses are valid for a two-year period and are renewable upon certification of involvement in the fishery sector, issued by the fisheries cooperatives or cooperative unions to which the fisherman belongs or the local offices of the administration responsible for fisheries (**Article 4 of Fisheries Regulations No. 22223 of 1995**).

In order to be issued with a fishing license, applicants must be at least 18 years of age and Turkish citizens, and fishing vessels must have been granted a certificate of seaworthiness by the competent authority and satisfy the fishing vessel and gear requirements set out in **Article 13 of Fisheries Regulations No. 22223 of 1995** (**Article 5 of Fisheries Regulations No. 22223 of 1995**).

Exclusive fishing rights may be granted by the competent authority to cooperative associations, cooperatives or village unions through the leasing of marine areas (**Article 4 of Fisheries Act No. 1380 of 1971**).

### 21.2. Conservation and management measures

#### 21.2.1. Fishing methods

Fishing using explosives such as dynamite, poisonous or noxious substances, electric shockers or percussive instruments is strictly prohibited throughout Turkish waters (**Article 19 of Fisheries Act No. 1380 of 1971**).

In *trata* fishing, which is a local fishing method, it is forbidden to use more than one vessel or more than 5 ropes in the Aegean Sea (**Article 14 E of Fisheries regulations No. 22223 of 1995**).

The use of beach seines is prohibited throughout Turkish waters (**Article 14 E of Fisheries regulations No. 22223 of 1995**).

<sup>207</sup> This Act was amended by Act No. 3288 of 1986.

The placing of artificial reefs in Turkish waters is subject to the prior permission of the Ministry responsible for fisheries (**Article 21-15 of Circular No. 33/1**).

### 21.2.2. Fishing gear

**Article 13 of Fisheries Regulations No. 22223 of 1995** determines the fishing gear that can be lawfully kept on board and used from the various classes of fishing vessels:

- for non-motorized fishing vessels: hooks and lines, set nets, gill nets, cast nets, dragnets, and small seine nets
- for motorized fishing vessels less than 12 m in length: most fishing gear including dragnets, shrimp trawls and spears
- for motorized fishing vessels more than 12 m and less than 22 m in length: all of the above and purse seines and trawl nets
- for motorized fishing vessels exceeding 22 m in length: all of the gear mentioned above.

Mesh sizes of nets are restricted and must not be less than:

- 18 mm for bottom trawls
- 18 mm for dragnets, except for nets used to catch anchovy, sardine, picarel, silverside, *papalina* and sprat
- 16 mm for submerged nets (measured in *katakula*<sup>208</sup>) (Article 14 of Fisheries Regulations No. 22223 of 1995).

Commercial fishing activities by means of spears and water guns are prohibited (**article 35-3 of Circular no. 33/1**).

### 21.2.3. Area and time restrictions

The main provisions regulating area and time restrictions with respect to species and fishing gear contained in **both Fisheries Regulations No. 22223 of 1995 and Circular No. 33/1 on commercial fishing for the season 1999-2000** are summarized in the two tables below.

Fishing method or gears	Prohibited area	Closed season	Mesh sizes
<b>Trawling (any kind)</b>	a): Aegean Sea: Saros Gulf, Edremit Gulf, Dikili Gulf, Candarly Gulf, Yzmir Gulf, Cebme Channel, Syoacyk Gulf, Kupadasy Gulf, Yepilova Gulf, Hisaronu Gulf, Gokova Gulf,	a): Throughout the year	

<sup>208</sup> *Katakula* is the local name used to designate a specific part of a submerged net.

	Gulluk Gulf  b): Mediterranean Sea: in the area north of the line drawn between Yardymcy Region and Kap Uluburun	b): Throughout the year	
<b>Bottom trawl</b>	a) Aegean Sea: within 1.5 miles of the coast from Maritza River to Yardymcy Region and within 3 miles of the coast between the line (38° 15' 55" N – 26° 14' 30" E and 38° 06' 25" N – 26° 35' 30" E). Bottom trawling is authorized in a few areas mentioned in Article 4.3 of Circular No. 33/1  b) Mediterranean Sea: within 2 miles of the coast between Yardymcy Region and Akyncy Region and within 3 miles of the coast between Anamur Region and Ceyhan River estuary, no restriction from Akyncy River and the Syrian border	a) Aegean Sea: from 1 December 1999 to 31 March 2000 in area east of the line drawn between Tekeaoac Region and Muola Province From 1 April to 1 July 1999 and 1 April to 1 July 2000 in other locations  b) Mediterranean Sea: from 15 May to 1 September 1999 and from 15 May to 31 August 2000	b) Mediterranean Sea: mesh size no less than 22 mm
<b>Circular nets</b>	a) Mediterranean Sea: from Yardymcy Region to the Syrian border  b) In the Aegean Sea to Anamur Region in the Mediterranean in areas less than 10 fathoms deep  c) In locations less than 6 fathoms deep	a) From 15 May to 1 July 1999 and from 15 May to 31 August 2000  b) From 1 April to 1 May 1999 and from 1 January to 1 May 2000  c) From 1 September and 1 December 1999	

	d) In the Mediterranean, in locations less than 6 fathoms deep between Anamur Region and Tabucu and less than 4 m between Tabucu and the Cayhan River estuary and less than 6 fathoms deep from the Cayhan River estuary to the Syrian border		
<b>Fishing with light</b>	In the Aegean Sea: in areas listed in Article 17.1 of Circular No. 33/1 In the Mediterranean Sea: between Anamur Region and the Syrian border		
<b>Drag nets</b>	a) In the Mediterranean Sea: in territorial waters from Yardymcy Region to the Syrian border (prohibition does not apply to seine used to catch juveniles in the area extending from the Seyhan River to Yumurtalik harbor in Adana Province	a) From 15 May to 1 November 1999 and from 15 May to 31 August 2000  b) From 1 April to 1 July 1999 and 1 April to 1 July 2000 throughout the Aegean Sea As of 1 April 2001 use of drag nets will be prohibited at any time throughout the Aegean Sea	b): In the Aegean Sea: mesh size should not be less than 22 mm, except for piceral, <i>papalina</i> , anchovy and pilchard
<b>Driftnets</b>	In the Mediterranean Sea and the Aegean Sea	Throughout the 1999 – 2000 season	

**Table 1. Fishing methods and gear**

<b>Species</b>	<b>Gear restriction</b>	<b>Prohibited area</b>	<b>Closed season</b>
<b>Shrimp</b>	a) Use of shellfish net is prohibited	a) Throughout Turkish territorial waters	a) Throughout the year
	b) All gears except nets	b) In the Aegean Sea	b) From 1 May to September 1999

	<p>c) All gears</p> <p>In the Mediterranean Sea trawl nets must not exceed 22 m in length and bag mesh size must not be less than 22 mm</p>	<p>c) In the Mediterranean Sea (within 2 miles of the coast between Anamur Region and Akyncy Region)</p>	<p>and from 1 May to 31 August 2000</p> <p>c) From 1 may to 1 September 1999 and from 1 May to 31 August 2000</p>
<b>Periwinkle</b>	<p>a) Use of the shellfish net is prohibited</p> <p>b) Underwater fishing is permitted</p>	<p>a) Throughout Turkish territorial waters</p> <p>b) Throughout Turkish territorial waters</p>	<p>a) Throughout the year</p> <p>b) Throughout the year</p>
<b>Lobster</b>		The Mediterranean Sea and the Aegean Sea	Throughout the year
<b>Striped venus</b>	<p>Openings of nets and dredges must not be larger than 80 cm, width must not exceed 20 cm, bag mesh size must not be less than 1 cm and bag length must not exceed 1 m</p> <p>For teeth bar dredges, teeth must not be set less than 2 cm apart</p>		<p>From 15 April to 1 September 1999 and from 15 April to 31 August 2000</p>
<b>Aquavades and kidonya</b>	<p>a) Use of any gear is prohibited</p> <p>b) Mesh size of sieves must not be less than 24 mm</p>	<p>a) Throughout Turkish territorial waters</p> <p>b) In the territorial waters of Izmir Province</p>	<p>a) From 1 May to 1 November 1999 and from 1 May to 31 August 2000</p> <p>b) Throughout the year</p>
<b>Oyster</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 1 May to 1 September 1999

			and from 1 May to 31 August 2000
<b>Swordfish</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 1 October 1999 to 31 January 2000
<b>Grouper and dusky grouper</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 15 June to 1 August 1999 and from 15 June to 1 August 2000
<b>Flounder</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 1 January to 1 April 2000
<b>Bonito</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 1 April to 1 September 1999 and from 1 April to 31 August 2000
<b>Tuna</b>	Use of any gear is prohibited	Throughout Turkish territorial waters	From 1 April to 1 September 1999 and from 1 April to 31 August 2000
<b>Atlantic tuna</b>	Use of any gear is prohibited	In Mediterranean Sea between Anamur Region and the Syrian border	From 1 June to 1 September 1999 and from 1 June to 31 August 2000
<b>Pilchard</b>	Use of any gear is prohibited	In the Mediterranean from Yardımcı Region to the Syrian border	From 15 May to 15 July 1999 and from 15 May to 15 July 2000

**Table 2. Commercial species**

In addition to the above, it is generally forbidden to fish within 500 m of the mouth of a river (**Article 17 of Fisheries Regulations No. 22223 of 1995**).

#### 21.2.4. Protected species

It is strictly prohibited to fish dolphins, seals, sturgeons, turtles (*Caretta caretta*), sponges, sea horses, abalones, and red and black corals throughout Turkish waters (**Article 6 of Circular No. 33/1**).

#### 21.2.5. Minimum landing sizes

The minimum landing sizes for species of economic importance are set out in **Article 15 of Circular No. 33/1** and are summarized in the table below.

Species	Minimum size (cm) or weight
<i>Octopus sp.</i>	1000 g

Aquavades	24
Learfis	20
Striped mullet	13
Hake	25
Bream	15
Anchovy	9
Lobster	25
Horse mackerel	13
Oyster	6
Turbot	44
Black bream	15
Gray mullet (amuderya)	35
Golden mullet	30
Gray mullet	30
Swordfish	120
Bass	18
Gurnard	35
Blue crab	7
Striped venus	2.3
Corb	25
Grouper	40
Bonito	25
Flounder	20
Meagre	25
Dentex	20
Red mullet	11
Tuna	90
Mackerel	20
Little tuny	30

It should be noted that proportions of undersized individuals, amounting to no more than 15% of the total catch for anchovy and to no more than 5 % of the total catch for other species mentioned above, are tolerated.

#### 21.2.6. Reporting requirements

The master of any fishing vessel operating within Turkish waters is required to keep note of information on fishing activities and catches (**Article 21-16 of Circular No. 33/1**).

#### 21.2.7. Sport fishing

Sport fishing is subject to a permit issued by the Ministry responsible for fisheries. Authorized gears for sport fishing activities include longlines and cast nets. The technical characteristics, and conditions on use, of other gear are determined by the competent authorities at local level. Such activities are subject to daily catch limits, as

prescribed in Annex 4 of **Fisheries Regulations No. 22223 of 1995 (Article 6 of Fisheries Regulations No. 22223 of 1995)**.

### 21.2.8. Incidental catch

The procedures to be followed in respect of incidental catch are the following:

- live incidental catch must immediately be returned to the sea
- dead incidental catch is kept on board and submitted to the competent authorities, which decide whether or not it can be sold.

The proceeds from the sale are deposited in a special account (**Article 19 of Fisheries Regulations No. 22223 of 1995**).

## 21.3. Marine protected areas

**The National Parks Act of 10 August 1983** sets forth the general categories of protected area that can be established in Turkey. It includes national parks, nature parks and nature reserves. This Act provides the legal basis for the creation of marine protected areas, even though its provisions do not explicitly mention that these protected areas may include zones of marine water. At least eight protected areas, including marine zones, have been established in the Turkish waters located in the Mediterranean Sea, namely:

- the Datcha Botzburum Specially Protected Area, covering a total surface area of approximately 147,400 hectares, including a 30,500-hectare marine area
- the Fethiye Gocek Specially Protected Area, covering a total surface area of approximately 61,300 hectares, including a 31,300-hectare marine area
- the Foca Specially Protected Area, covering a total surface area of approximately 2,750 hectares, including a 1,200-hectare marine area
- the Gokova Specially Protected Area, covering a total surface area of about 52,100 hectares, including a 27,600-hectare marine area
- the Goksu Delta Specially Protected Area, covering a total surface area of approximately 23,600 hectares, including a 5,800-hectare marine area
- the Kekova Specially Protected Area, covering a total surface area of approximately 26,000 hectares, including a 11,500-hectare marine area
- the Koycegiz Daylan Specially Protected Area, covering a total surface area of about 38,500 hectares, including a 10,200-hectare marine area
- the Patara Specially Protected Area, covering a total surface area of approximately 19,000 hectares, including a 4,200-hectare marine area<sup>209</sup>.

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<sup>209</sup> Information provided herein is taken from a 1995 report on global representative systems of marine protected areas prepared by the World Bank and the International Union for the Conservation of Nature. Names of marine areas have been kept the way they appear in the above-mentioned report, even though the National Parks Act of 10 August 1983 does not provide for establishing *specially protected areas*.

#### 21.4. Comments

It is not quite clear whether Turkey's basic fisheries legislation provides for the licensing of national fishing vessels that operate on the high seas. If this is not the case, the **Fisheries Act No. 1380 of 1971** will need to be modified accordingly. Adoption of yearly circulars regulating both commercial and sport fishing activities enables the fisheries management authority to adjust the conservation and management measures to the availability of the fishery resources occurring within Turkish waters.



# PART THREE

## CONCLUSIONS AND RECOMMENDATIONS

## Conclusions

This analysis of national fisheries legislation shows, as summarized in Annex 1, that all the states bordering on the Mediterranean Sea for which at least partial information was available have adopted measures designed to minimize the impact of fishing activities on marine ecosystems and non-target species. It also demonstrates that differences exist between the various legal frameworks, and that some are more comprehensive than others. In this respect, it should be emphasized that information contained in Annex 1 should be interpreted with caution, since putting a cross in the box in the table merely signals that the issue to which it applies has been addressed and does not indicate whether that issue has been satisfactorily dealt with.

Fisheries laws and regulations enacted by coastal states in the Mediterranean are primarily directed towards protecting and conserving fishery resources. The conservation of fish habitats and marine ecosystems, however, does not generally seem to be a major concern, in that no fisheries legislation provides for creating marine parks or other marine protected areas, as can be found in fisheries legislation in other parts of the world<sup>210</sup>.

This analysis has revealed that the basic fisheries legislation of a number of states (e.g. Syria 1964, Malta 1953, Israel 1937 and Morocco 1973) is outdated and therefore needs to be reassessed in the light of recent developments in the field of fisheries, notably the FAO Code of Conduct for Responsible Fisheries. In this regard, it should be noted that both Morocco and Malta have already prepared fisheries bills that are meant to replace their existing basic fisheries legislation. Spain, for its part, is in the process of adopting a basic fisheries legislation for the first time.

Most of the coastal states bordering on the Mediterranean Sea have enacted legislation providing for the licensing of those fishing vessels, whether national or foreign, that operate within the waters under their sovereignty or jurisdiction<sup>211</sup>. By contrast, only a few of these states require that fishing vessels flying their flags be licensed to operate on the high seas. This is a particularly sensitive issue in the Mediterranean Sea, where coastal states have hitherto refrained from declaring economic exclusive zones and where thus areas of high seas lie no further than 12 nautical miles from the shores. As mentioned above, flag states whose vessels fish on the high seas are required under international law to grant these vessels special authorization to do so and ensure that their activities do not undermine the effectiveness of the conservation and management measures taken by regional organizations<sup>212</sup>.

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<sup>210</sup> For instance, the Marine Living Resources Act, 1998 (Act No. 18 of 1998), which is the basic fisheries legislation of South Africa, provides for the declaration of marine protected areas (Section 43).

<sup>211</sup> Monaco does not require fishing vessels operating within its waters to be licensed. Information was not available for Bosnia & Herzegovina, Lebanon, Slovenia and Yugoslavia.

<sup>212</sup> See Article 6.11 of the FAO Code of Conduct for Responsible Fisheries, Article III of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 1993, Article 18, paragraphs 1 and 2, of the United Nations Straddling and Highly Migratory Fish Stocks Agreement of 1995.

Catch reporting, which is crucial for improving scientific knowledge of fisheries and devising sound conservation and management measures, is not required by all states. Where mandatory, procedures, frequency and information to be communicated are not always specified.

Although it is not possible to assess how adequate the measures taken by each individual state with regard to fishing gear selectivity are, it should be emphasized that all states bordering on the Mediterranean Sea have adopted measures regulating the characteristics, and conditions of use, of fishing gear. Specific measures restricting the use of driftnets have also been adopted at both regional and local level<sup>213</sup>.

While several states prohibit the taking of sea mammals and/or marine turtles (e.g. Albania, Israel, Italy), few have devised a comprehensive scheme to ensure the conservation of species associated with or dependent upon target species. Similarly, the regulations dealing with incidental catch and discard of non-target species that have been adopted in the area generally only provide for the protection of undersized individuals of selected species of commercial interest, such as tuna or tuna-like species, and do not constitute a comprehensive legal framework for the protection of protected or immature species.

As far as can be established, no states have taken any measures to reduce the impact of ghost fishing on fishery resources. However, it is not quite clear whether ghost fishing is recognized as a threat to fishery resources in the Mediterranean Sea.

Insofar as can be established, only Spain and Turkey have adopted regulations governing the establishing of artificial reefs in the waters under their sovereignty or jurisdiction in the Mediterranean.

Conservation of critical fisheries habitats and spawning grounds is crucial for ensuring the sustainable utilization and diversity of marine living resources. This objective can best be achieved by creating marine protected areas or prohibited fishing zones. With regard to the latter, fisheries legislation usually empowers the competent authority to prohibit or restrict fishing, either permanently or temporarily, in any specified area. Such provisions are generally used to protect spawning grounds. As regards the former, most states have enacted legislation that provides for establishing land-based protected areas that can be extended to adjacent marine water, but few have devised specific provisions for the creation of marine protected areas.

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<sup>213</sup> At regional level, the GFCM adopted Resolution No. 97/1 prohibiting any vessel flying the flag of a GFCM Contracting Party to keep on board, or use for fishing, one or more driftnets whose individual length is more than 2.5 km. The ACCOBAMS provides for similar restrictions. By adopting Council Regulation (EC) No. 1239/98 of 8 June 1998, EU Member States agreed to ban the use of all kind of driftnets in the waters under their sovereignty or jurisdiction by 1 January 2000. At national level, Spain issued an Order restricting the use of driftnets in the Mediterranean (Order of 22 October 1990). Lastly, it should be recalled that the United Nations General Assembly recommended a global moratorium on all large-scale pelagic driftnets on the high seas of world's oceans and seas, including enclosed and semi-enclosed seas, by 31 December 1992 (Resolution 46/215 of 20 December 1991).

## Recommendations

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Based on this analysis of national fisheries legislation (Part Two) and in the light of the conclusions formulated above, it is recommended that:

- States undertake a global review of their fisheries legislation to ensure that all the issues under consideration in this study are adequately dealt with, and that all those provisions of their basic fisheries legislation that require the devising of implementing regulations to be effective are adopted in due time.
- States review their national legislation providing for the establishing of protected areas in order to ensure that specific language providing for the creation of marine protected areas is incorporated therein or in the basic fisheries legislation.
- States, where necessary, modify their national fisheries legislation to provide for the licensing of national fishing vessels that operate outside the waters under their sovereignty or jurisdiction.
- States take all necessary steps to ensure that the binding measures adopted within the framework of the regional fisheries arrangements or organizations to which they are parties are incorporated in their national legislation. In this respect, GFCM Member States that have not yet translated the recommendations made by this organization with respect to driftnet fishing into their national legislation, should do so as soon as practicable.
- States broaden the scope of their regulations that deal with incidental catch and discard in order to provide an overall legal framework that will be applicable to a wide range of species rather than only a handful of highly valuable species.
- States, if it is deemed necessary in the waters under their jurisdiction, adopt measures aiming at eliminating the impact of ghost fishing on fishery resources. If ghost fishing is recognized as a serious threat to fishery resources in the Mediterranean, this issue may then be more effectively addressed at regional level.
- States take all necessary steps to ensure that conservation and management measures be properly enforced throughout the waters under their sovereignty and jurisdiction.



				None has yet been created							
<b>Slovenia</b>											
<b>Spain</b>	X High Seas	X	FE, FC	X		X	X		X	X	X
<b>Syria</b>	X	X				X			X		
<b>Tunisia</b>	X	X	FC	X	X	X	X	X			
<b>Turkey</b>	X	X		X	X	X	X	X	X	X	
<b>Yugo- slavia</b>											

- (1) A cross (X) in a column indicates that the issue mentioned at the top of the column is addressed by the fisheries legislation of the relevant country.
- (2) Bosnia & Herzegovina, Slovenia and Yugoslavia are included in this table although no information on their fisheries legislation was available for the purpose of this study.
- (3) Inclusion of the term *High Seas* in the second column dealing with licensing indicates that the fisheries legislation of the country it refers to provides for the licensing of national vessels that operate on the high seas.
- (4) A cross(\*) against a country indicates that the analysis of that country's fisheries legislation was based on fragmentary information.

**The Regional Activity Centre for Specially Protected Areas (RAC/SPA)** constitutes one of the institutional components of the Mediterranean Action Plan (MAP) of the United Nations Environment Programme (UNEP), co-ordinated under the supervision of the MAP Co-ordinating Unit. The Centre was set up in 1985 to assist Mediterranean countries in implementing the Protocol on specially protected areas and biological diversity. The Centre aims at assisting Mediterranean countries to establish and manage marine and coastal protected areas and to conserve biological diversity.

Among the Centre's activities is a project for preparing a **Strategic Action Plan for the Conservation of Marine and Coastal Biological Diversity in the Mediterranean Region** -SAP BIO Project - (1 January 2001 - 31 December 2003).

Starting from an assessment at national and regional level of the state of marine and coastal biodiversity, based on existing scientific data, and taking into account the Jakarta Mandate (developed within the framework of the Convention on Biological Diversity) and the Protocol on Specially Protected Areas and Biological Diversity, the SAP BIO Project aims at analysing the negative factors that affect marine and coastal biodiversity, or the lack of information, and identifying concrete remedial action. Integration of the actions decided on at national, sub-regional and regional level, along with detailed investment portfolios, involvement of stakeholders, and the development of approaches and principles, will become the Strategic Action Plan for Biodiversity. In addition to this strategy, which is the final document of the processes, within the framework of the SAP BIO Project, a series of national and regional reports is being prepared.

The present document is part of this series.



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