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Proposal for a

COUNCIL REGULATION

**establishing a Community system to prevent, deter and eliminate
illegal, unreported and unregulated fishing**

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ANNEX I

Aims and Proposals for a new strategy of the Community to prevent, deter and eliminate IUU fishing

AIM: CLOSING THE DOORS OF THE COMMUNITY TERRITORY TO IMPORTS OF FISHERIES PRODUCTS CAUGHT ILLEGALLY

The EC legislation lays down the general requirements that foreign-flagged vessels must respect in order to be entitled to land fishing products in Community ports (prior notification, landing in designated ports, transmission of data on the origins of the catches...). This regime is less stringent than the rules applying to landings of Community vessels, and it does not cover imports by transport means other than fishing vessels, which indeed account for most of the trade with third countries. It does not provide national authorities with sufficient tools to make sure that a proper control is performed as to the legality of the millions of tons of fisheries products reaching every year the Community territory. This represents a major loophole and generates important incentives for IUU operators to sell unprocessed and processed products on the Community market. In addition, the deficiencies of the Community system have been used by illegal foreign fishing vessels which were able to benefit from port services within the Community and thereby encouraged to pursue their activities.

Significant progress has been recently achieved at international level and within some Regional Fisheries Management Organisations (RFMOs). The FAO adopted in 2005 a model scheme on port State measures, which lays down standards going beyond the current Community framework. In addition, RFMOs have developed specific measures designed to regulate access to Port (for ex. within the NEAFC) or to monitor the trade of certain fish stocks subject to intense IUU fishing (catch documentation schemes for toothfish within the CCAMLR and statistical document programmes for blue fin tuna, bigeye tuna and swordfish within ICCAT and IOTC). Those measures, implemented at Community level, represent important steps forward, but are by nature specific to some stocks or regional areas and provide for limited control possibilities.

Proposal No 1: a new approach for access of third country fishing vessels to Community ports

The Commission suggests the introduction of a new approach governing the access of third country fishing and assimilated vessels (including transshipment vessels or "reefers") to Community ports. This approach would rely on the principle that Member States would only be authorized to grant access to their ports and to provide port services to vessels whose Flag State certifies that the products on board have been legally caught and commits itself to cooperate for verifications under the provisions of the new certification system applying to all imports of fisheries products into the Community (cf. proposal n°2).

Another element would consist, within Community waters, in prohibiting transshipment outside Community ports. Finally, Port State measures in respect of all IUU-listed vessels would be harmonized within the Community, in order to avoid the current situation within the Community where different rules apply depending on which RFMO listed the vessel. Port State inspections would also be enhanced.

Proposal No 2: establishment of a certification system designed to ensure adequate control of the legality of fisheries products from third countries imported into the Community

The importation of all fisheries products (including processed products) from third countries into the Community should be made conditional upon the certification by the Flag State concerned that they have been legally caught. If no confirmation can be provided, the products should not be authorized to reach the Community. In concrete terms, permission for importation would only be granted upon submission of a catch certificate issued by the Flag State to certify that the products comply with the relevant conservation and management measures and other relevant provisions under international law. In case of doubt, Flag States should cooperate with the Member States concerned for further verifications prior to granting permission for importation.

In order to advise control authorities and importers on situations of possible illegality of products due to the situation of the vessels, suppliers or Flag States, the Commission proposes the setting up of an "alert system", designed to increase the vigilance of the operators and create an obligation for reinforced verifications by Member States. This system would serve prioritizing controls over fishing vessels or products presenting a risk for compliance, thereby assisting public authorities and operators in their dealing with fisheries products.

AIM: DETER FISHING OPERATORS FROM TAKING ADVANTAGES OF THE FAILURES BY SOME STATES TO ENSURE COMPLIANCE WITH RULES BY THEIR FLEETS

The Community promotes at international level the definition of what should be the duties of Flag States in respect of their fishing fleet. In particular, the Commission supports the distinction which should be made between the merchant fleet and the fishing fleet in that regard. International negotiations on this issue are however very difficult due to the reluctance of major shipping nations to engage on such grounds, and progress so far has been very limited.

The Community is also supportive of the measures established within RFMOs, aiming to identify and penalize IUU operators (via the adoption of lists of IUU vessels and of subsequent sanctions) or to encourage States to ensure compliance with rules by their fleets, including by means of trade measures. The "IUU lists" contain however, due to insufficient means to deter IUU practices, a limited number of vessels, which often change flags and names. For the same reasons, trade measures directed towards States have been seldom used by RFMOs and have not proven to be fully efficient as they cannot properly address the issue of how to detect marketing channels for IUU products. As a result, action within RFMOs does not always trigger outcomes which meet the expectations of the Community when it comes to deter States from supporting IUU fishing practices.

The decision-making process of RFMOs relies on consensus among all Contracting Parties and the most important decisions are adopted only during annual meetings. This allows a single Party to obstruct progress against IUU fishing within a RFMO if it considers that a proposal supported by all other Parties would harm its interests. Recent examples have shown the difficulty for some RFMOs to agree on the listing of IUU vessels, despite clear and objective indications as to the reality of the infringements committed, due to the opposition of the Flag State of the vessels concerned. The consensus-based decision-making is at the roots of the functioning of all multilateral organisations and needs to be respected as such. It should

not however prevent those who want to go further than the measures agreed from doing so, if there are sound objective reasons justifying this choice.

Proposal No 3: Entitle the Community to adopt unilateral measures concerning States failing to ensure compliance with management and conservation rules

The Community should have its own mechanisms to identify States which place themselves outside the international legality and thereby encourage IUU practices, and to apply restrictive measures towards them.

The procedure for identifying those States and adopt and implement appropriate measures should be non discriminatory transparent and ensure that the rights of the States concerned to be heard are respected. The identification should be based on clear criteria, including notably the fact that IUU vessels listed in RFMOs stem from certain Flag States, evidence on IUU activities, the non ratification by those States of the international instruments on law of the sea and fisheries matters, their non membership to RFMOs (and the fact that these States do not cooperate with Parties to those instruments), and an assessment of the legislation and practice of the States concerned with respect to the treatment of IUU practices.

The identification of a State would trigger the implementation of an array of actions by the Community, which would include trade measures, prohibition for vessels flying the flag of the State concerned to land, support and tranship with Community vessels and in Community ports, prohibition for Community nationals to engage in or support fishing activities carried out by vessels flying the flag of the State concerned and to sell or export fishing vessels to the IUU operators or those States. Those actions should be proportionate to the degree of non compliance of the State concerned. As far as trade measures (including import ban) are concerned, all necessary steps should be taken in order to guarantee that Community initiatives comply with WTO requirements.

The possibility should be offered to our international partners who so wish to join the Community in the actions described towards those "non-cooperating States".

AIM: REACHING A HIGHER DEGREE OF COMPLIANCE IN COMMUNITY WATERS AND BY COMMUNITY VESSELS AND OPERATORS WITH INTERNATIONAL AND COMMUNITY STANDARDS

Proposal No 4: simplification of the Community framework on control, inspection and enforcement

The Community framework on inspection, control and enforcement dates back to a large extent to the beginning of the 1990's. It needs to be profoundly overhauled in order to meet the evolution of fishing and related activities that took place since then, as well as to ensure a smooth articulation with the provisions agreed within the framework of the 2002 reform of the Common Fisheries Policy and with the international commitments of the Community. To this end, the Commission intends to come forward in 2008 with a proposal revisiting the existing framework and setting the basis for a new regime on the matter.

Notwithstanding this future reform, the Commission intends to propose within the current "IUU package" a simplification and an improvement of the control, inspection and enforcement framework derived from decisions adopted within RFMOs. The Community is member of a dozen of such organisations. Most of them have developed or are in the process

of developing control, inspection and enforcement schemes. Those provisions can vary substantially from one organisation to the other, notably as their degree of comprehensiveness may not be equivalent. Those schemes are currently implemented into Community law via various Council Regulations. This triggers two difficulties. Firstly, the volume of the RFMOs provisions and the frequency of their adoption and revision make it often hard to ensure a timely transposition into Community law. Secondly, the coexistence of diverse rules stemming from different legal orders creates confusion among Community operators and Member States.

The Commission therefore suggests that the incorporation into Community law of the main provisions pertaining to control, inspection and enforcement adopted within RFMOs is ensured via a single Regulation. This Regulation would integrate the most ambitious standards adopted within the RFMOs to which the Community is party, and extend their scope to all waters subject to a RFMO. This would contribute to simplify the framework applying to Community operators and public authorities via a harmonization of rules according to the highest existing control, inspection and enforcement standards.

Proposal No 5: Improve the efficiency of penalties corresponding to serious infringements against fisheries rules

The Commission believes that one of the main weaknesses of the current Community framework pertaining to control and enforcement of CFP rules relates to the insufficient level of penalties pronounced by national authorities against serious infringements to fisheries law.

Sanctions established in the national legal system of Member States corresponding to similar infringements vary to a great extent throughout the European Community. As a result, there is no level playing field within the Community, and illegal operators are encouraged to operate, tranship or land in States where penalties can be assumed as regular operational costs. Besides, the overall level of sanctions within the Community is too low to ensure the loss by violators of the financial benefits gained from their illegal activities, and they are therefore generally viewed as not sufficiently deterrent. Finally, they are not in line with penalties which may be imposed to operators involved in illegal activities triggering similar negative impacts in other areas.

At Community level, progress has been made recently in the definition of infringements and corresponding sanctions in the field of environment crime or ship source pollution. Just like in those two sectors, illegal fishing poses in some instances problems of particular gravity.

In 2002, with the framework of the CFP reform, the Council undertook to adopt future initiatives pertaining to the establishment of "a catalogue of measures to be applied by Member States relating to serious infringements"¹.

In that respect, the Commission suggests that a Community regime is established, whereby serious infringements committed by natural and legal persons against provisions of the Common Fisheries Policy would be subject to sanctions, the maximum levels of which would be approximated throughout the Community. Illegal trade with fisheries products would also be covered. The maximum level of sanctions should be set at a much higher level than what is currently observed in the Member States, to reflect the imperative need to impose strong and

¹ Article 25(4) of Council Regulation (EC) No 2371/2002.

deterrent measures dissuading fishermen from infringing the rules. Given that one primary aim of the Common Fisheries Policy is to manage properly and conserve natural resources, the levels should be comparable to those proposed by the Commission for the protection of environment through criminal law. According to this new regime, the value of the benefits accruing from the infringements should be taken into account in the determination of the level of fines. The financial sanctions could be accompanied by other penalties, like the confiscation of catches or vessels, or the withdrawal of licences.

Proposal No 6: Deterring Community nationals from engaging in or supporting IUU activities

Another shortcoming undermining efforts to curb IUU fishing and harming the image of the Community lies in the fact that Community nationals are engaged in or support IUU activities outside Community waters.

The failure by some States to exercise effective jurisdiction and control over their fishing fleet has allowed the development of illicit fishing practices by non EC-flagged vessels. There is evidence, mostly originating from third countries or RFMOs, that Community nationals are involved in such illicit activities. These are not only crew members, masters and owners of foreign-flagged vessels, but also legal and natural persons trading illegal products or providing support to vessels violating rules on management and conservation of fisheries resources.

Provisions on this issue have been adopted by the Community in the framework of the 2002 CFP reform. They state that Member States shall adopt enforcement measures preventing the involvement of their nationals in fisheries activities that do not respect the applicable conservation and management measures.

Member States have so far not or partially implemented specific and effective enforcement provisions targeting their nationals when involved in illicit fishing practices. The difficulty to prosecute nationals outside their territory is put forward by the majority of Member States as the main reason for the absence of action in that domain.

As a result, nationals involved in illicit fishing outside the Community continue to enjoy a relatively high degree of impunity.

Some RFMOs (CCAMLR and ICCAT) have recently adopted new measures imposing on its Parties to investigate the activities of their nationals in order to verify their conformity with rules on conservation and management of fisheries resources in place. A duty to cooperate with other Parties has been put in place for this purpose, as well as reporting obligations.

New provisions should be introduced into Community law, which would increase transparency as to the activities of Community nationals in relation with vessels flagged to third country, spell out clearly Member States' obligations to verify the legality of those activities and sanction nationals involved in IUU fishing.

AIM: BETTER COOPERATION FOR INVESTIGATING IUU ACTIVITIES

Proposal No 7: Improve the cooperation within Community and with our international partners to improve the Monitoring, Control and Surveillance of IUU activities

Within the Community, national fisheries departments should coordinate, to the maximum of their potential, their efforts to monitor fishing activities, detect IUU practices and exchange information on infringements and tracking of alleged IUU operators and trade channels, and should provide mutual assistance so that infringements can be effectively documented and prosecuted and sanctioned. This will be a major task of the Community Fisheries Control Agency. Without waiting for this Agency to become fully operational however, efforts in boosting cooperation within Member States between authorities in charge of fisheries, customs, sanitary requirements and maritime surveillance are of paramount importance in order to ensure that IUU activities are properly investigated and sanctioned.

Reaching a higher level of cooperation for investigating IUU activities also concerns our relations with third countries, with a view to tracking IUU operators acting along patterns similar to international organised crime networks. The Commission intends to promote better cooperation for Monitoring, Control and Surveillance at international level. In that framework, the Commission is supportive of efforts carried out by the international community, notably within FAO, to put in place a global register of fishing vessels and an international network dedicated to MCS activities and to promote mutual assistance with third countries to combat IUU fishing. The key challenge for those initiatives shall be that they are really operational and clearly focused on improving enforcement practices.

AIM: INTENSIFY EC POLICY AGAINST IUU FISHING ON THE HIGH SEAS AND IN RELATION WITH DEVELOPING STATES

Proposal No 8: Press within RFMOs for further progress against IUU fishing

The Commission wishes to consolidate and reinforce the leading role of the Community in respect to the fight against IUU fishing on the high seas, via its active involvement within RFMOs.

This implies notably supporting the generalization of comprehensive sets of inspection, control and enforcement measures in all RFMOs (including VMS equipment, registration of catches, port state measures, catch documentation schemes, inspection schemes, white and black lists of vessels...). Particular focus should notably be placed on trade-related measures designed to curb IUU fishing. The Commission also wishes to improve the functioning of those organisations to enhance their efficiency in managing and controlling fisheries resources. Finally, The Commission also actively supports better cooperation between RFMOs, and wishes to strengthen the process initiated in the first inter-tuna RFMOs meeting held in Kobe in January 2007.

Proposal No 9: reinforce capacities of coastal developing countries for a better control and management of their maritime waters

The Community has been active at bilateral level via the financing of various measures designed to increase MCS means and practices of ACP countries with which it has concluded Fisheries Partnership agreements. This objective has also been pursued at regional level, via ad hoc schemes with coastal countries and regional organisations, on the model of the regional plan for fisheries surveillance in the southwest Indian Ocean agreed in January 2007. This plan aims at boosting cooperation between coastal States, notably through pooling of control resources and data sharing, and it is being funded by the EC for an amount of 7 millions € for the 3 coming years.

Alongside accompanying measures in the framework of the Common Fisheries Policy, the development policy of the Community may also contribute where appropriate to reinforce the policy and tools of developing countries for better management of their maritime waters.

Development policy instruments, in line with rules and procedures for programming of EC development cooperation funds, may also assist partner countries to comply with the new conditions that the Community may put in place in the future for authorizing imports of fisheries products into its market, and which demonstrate that third countries are able to manage and control their waters and fishing operators according to their international and domestic commitments. Such support could be of great importance for some coastal developing countries for which exports of fisheries products towards the Community represent a considerable source of income.

It is important to put in place a cooperation process with coastal developing countries so that the fight against IUU fishing becomes a priority in their development strategy and technical and financial support from the Community especially to strengthen their Monitoring, Control and Surveillance capacities can be mobilized in a sustainable manner.

ANNEX II

Assessment of the implementation of the 2002 community action plan for the eradication of IUU fishing

This Annex provides for an assessment of the implementation of the Community action plan adopted in 2002 (COM/2002/0180 final) derived from the international plan adopted by the FAO in 2001.

The creation of new RFMOs, whether at the initiative of or with the firm support of the EU, has extended the geographical coverage of high seas fishing grounds subject to international regulation. At the same time, extensive arrays of new measures adopted within existing RFMOs has reinforced control at seas and in ports and made possible better monitoring of trade flows. The adoption of black lists of IUU vessels has resulted in the introduction of dissuasive measures aimed at vessels identified as committing illegal activities. 2004 saw the entry into force of the new Partnership approach guiding the relations of the EU with developing countries with which it has concluded bilateral fisheries agreements. Reinforcing the management and control capacities of these countries is one of the cornerstones of the Partnership approach, and significant EU funding has been specifically allocated to this objective. At EU level, meanwhile, the reform of the Common Fisheries Policy agreed in 2002 has focused attention on the need to improve compliance with the rules which apply to EU fishermen and waters.

1. MEASURES AT COMMUNITY LEVEL

Action 1: State control over nationals

The EC has implemented this action by introducing in the Council Regulation (EC) n° 2371/2002, Articles 1.1, 23.2 and 24 with specific provisions in relation to nationals of Member States and IUU fishing. According to those provisions, Member States shall adopt enforcement measures preventing the involvement of their nationals in fisheries activities that do not respect the applicable conservation and management measures.

However, Member States have so far not or only partially implemented specific and effective enforcement provisions targeting their nationals when involved in illicit fishing practices.

In parallel, some RFMOs (CCAMLR and ICCAT) have recently adopted new measures imposing on its Parties to investigate the activities of their nationals in order to verify their conformity with rules on conservation and management of fisheries resources in place. A duty to cooperate with other Parties has been put in place for this purpose, as well as reporting obligations.

The Commission wishes to address, via the proposal for a Council Regulation attached to this Communication, the current difficulties put forward by Member States to investigate and prosecute their nationals outside the Community territory.

Action 2: Defining procedures for the implementation of arrangements approved at international level relating to the sustainability of fish

Article 22 of Council Regulation (EC) n° 2371/2002 allows the marketing of fishery products as far as they are sold from a fishing vessel to registered buyers or registered auctions.

Decisions of Regional Fisheries Management Organisations (RFMOs) to ban trade in fishery products taken in breach of their conservation and management measures are systematically transposed into Community law. Last examples are the ICCAT prohibitions on imports of migratory species caught by Bolivian and Georgian vessels.

Community Regulations transposing the certification and documentation systems adopted by RFMOs (CCAMLR, ICCAT, IOTC) have been amended in order to extend their scope of implementation to all types of introduction of products into the EC territory, in addition to imports for home consumption, and to prohibit trade with individual consignments of products found to have been taken in breach of conservation and management measures.

The Community Delegations to the RFMOs have systematically insisted that trade related measures and the underlying decision-making processes be designed in such a way that full consistency with WTO requirements on transparency and non discrimination in trade relations is ensured. In this vein, in 2006, the Community Delegation tabled a proposal on trade sanctions for Contracting and Non Contracting Parties to CCAMLR and ICCAT, which was adopted by the latter organisation.

Action 3: Control of activities associated with IUU fishing

The Community has initiated or supported the establishment of lists of IUU vessels in all RFMOs to which it is a Party. The listing entails the adoption of measures in respect of the vessels concerned, including prohibition to tranship with vessels from Parties or cooperating Parties of the RFMO, to import products into those countries, to land in their harbours (in some RFMOs), to receive port services and others.

Those lists are either incorporated into Community law or directly transmitted to Member States in order to guarantee that the measures attached to the vessels are duly implemented by national authorities from all Member States.

In addition, Community rules on serious infringements against fisheries rules and the corresponding measures which Member States should adopt have been enacted within the framework of the reform of the Common Fisheries Policy. Building on those provisions, the Commission wishes to go a step further and propose the establishment of a Community regime on the approximation of the maximum level of those sanctions.

Action 4: Alerting the fishing industry, consumers and the public in general to the need to control IUU fishing

The Commission ensures regular information on IUU fishing, notably via the webpage of its Directorate General for Fisheries and Maritime Affairs, through the release of a leaflet on the European Community external fisheries policy and via numerous meetings with interested stakeholders (notably within the Advisory Committee on Fishery and Aquaculture).

The adoption of the present Communication was preceded by a public consultation based on a "consultation paper" elaborated by the Commission services and posted on the website of the Directorate General for Fisheries and Maritime Affairs. This consultation triggered reaction from various stakeholders, notably from the catching sector, the processing industry, the banking sector, NGOs, third county authorities and the International Oceans Institute. A summary of the consultation has been drawn up by the Commission as part of the Impact assessment conducted in view of the elaboration of the "IUU package".

In order to inform operators and control authorities about possible illegality of fisheries products traded in the Community, the Commission proposes the establishment of an alert system which would allow for the identification of vessels or States which are suspected of failing to respect applicable conservation and management norms. This should raise the awareness of Community operators on the reality of IUU fishing and the risks involved in keeping economic or legal links with firms suspected of carrying out such practices.

2. MEASURES AT THE LEVEL OF REGIONAL FISHERIES MANAGEMENT ORGANISATIONS

Action 5: Development of framework plans for control and inspection within each regional fisheries organisation and

Action 8: Promoting uniform action plans to curb illegal fishing

In all the RFMOs to which the Community is Party, it has strongly promoted and driven the introduction of control and inspection schemes, to the extent that the majority of RFMOs have implemented schemes requiring the introduction of VMS systems on vessels operating within their regulatory area.

For example, the EC has submitted proposals to ICCAT and the IOTC for the adoption of integrated inspection and control schemes comprising VMS, observer schemes, in port and at sea inspections etc. Regrettably, there was considerable resistance to these measures both in ICCAT and in IOTC, by both signatories and non-signatories to the Agreement.

The Community is now pressing for the adoption of complementary control measures, encompassing in particular Port State schemes; this is notably the case in the NEAFC, where the Community has taken a leading role in drawing up port state control measures which entered into force in May 2007, and which are more comprehensive than those set down in the model scheme adopted by the FAO.

Action 6: Regulation of certain fishing activities on the high seas

This action relates to progressively suppressing the unregulated state of various stocks or fisheries. The Community has been instrumental in supporting the establishment of new RFMOs for demersal species. This has been the case for the South East Atlantic, with the setting up of the SEAFO in 2003, the Indian Ocean (with the signature of the SIOFA agreement in July 2006), or the South Pacific (where negotiations are ongoing and should result in the establishment of a new RFMO as well). In addition, the Community has supported the extension of the scope of existing RFMOs to new stocks, notably for deep sea stocks in the North Atlantic waters subject to NEAFC and NAFO competences.

Action 7: Identification and monitoring of IUU vessels

All major RFMOs (CCAMLR, ICCAT, IOTC, IATTC, NEAFC, NAFO) have adopted rules for the identification and monitoring of IUU vessels. In every occasion, these rules have been adopted on the basis of proposals presented by the EC. Such schemes provide for stringent obligations upon RFMO members to take action against identified vessels, including denial of landings and transshipment, refusal of fishing licences, cancellation of catch documents and others. All these schemes have been made mandatory for Member States. The Community also supports better cooperation between RFMOs for the identification and monitoring of IUU vessels, as demonstrated by the recent decision adopted within NEAFC and NAFO for the mutual recognition of their respective lists of IUU vessels.

Action 9: Identifying and quantifying illegal catches

Action 10: Certificates and documents

These two actions are intimately related. The EC is deeply involved in the development and promotion of Catch documentation schemes, from that in place in CCAMLR for toothfish, to the statistical document for tunas now applied in all major tuna RFMOs as a result of EC initiatives. The usefulness of such instruments in helping to assess illegal catches is proven.

In parallel to the follow up of work conducted under the FAO umbrella on the harmonisation of documentation, the Community has undertaken an in-depth analysis of the current RFMO certification and documentation systems, identifying where and how they could be improved so as to better support actions against illegal fishing and related trade activities. As a result of this initiative, ICCAT has agreed to review its documentation systems, which should have an influence on similar systems.

The identification and quantification of illegal catches relies to a significant extent on the gathering of data from trade sources. Thanks to research works on international trade carried out by the Commission, information on quantities imported or exported by countries known for not participating in the implementation of conservation or management rules are being communicated to the RFMOs concerned for action and follow up. As a result of this initiative, countries identified in the course of this research have accepted to implement these rules by joining the relevant RFMOs or by cooperating with them.

To improve the quality of information which can be collected by the compilation of international trade data, the Community has succeeded to that all the products which are submitted to certification and documentation systems be identified by specific codes in the Harmonized Commodity Description and Coding System (HS), which has been implemented by more than 177 countries and economic unions. From the 1 January 2007 onwards, the implementation of the specific HS codes for these products will be compulsory on customs declarations and for trade statistics.

3. MEASURES AT INTERNATIONAL LEVEL

Action 11: Improvement of information concerning fishing vessels

Here the action focused on supporting FAO's efforts to create and maintain an updated and comprehensive global record of fishing vessels. The EC is also communicating the necessary

information to FAO in accordance with the provisions of the FAO Compliance Agreement. It has also promoted the development of regional vessel registries managed by RFMOs. The adoption of various “white listing” schemes (of vessels authorised to operate in the respective RFO areas) contributes to the implementation of this action.

Action 12: Strengthening of international cooperation

The Commission participates in the Monitoring, Control and Surveillance (MCS) network, as foreseen in the EC plan of Action, and is involved in current discussions regarding the possibility of upgrading it from the existing forum format to that of a staffed organisation.

Action 13: Definition of a genuine link between a State and a vessel

The move towards a diplomatic initiative to define the genuine link between a State and a vessel has gathered considerable support, but it is still blocked by major shipping nations for reasons more related to the situation in the merchant shipping sector than in the fisheries sector. The Community continues, however to promote the need for progress in this area, and the language of the 2005 FAO Ministerial Declaration on IUU fishing and that of the UN General Assembly Resolution 61/105 of 2006 reflect the commitment of the EC and other parties to move this issue forward. The Community considers in particular that a distinction should be drawn between the fishing fleet and the merchant fleet in that regard. It is indeed clear that foreign operators who opt for registering their fishing vessels in third States that are unable or unwilling to exert an adequate control over their fishing fleet do so in order to escape any binding obligation to respect fisheries conservation and management norms. This is a major incentive to engage in IUU activities. The problem generated by such "flags of non compliance" therefore deserves a specific treatment and should be treated independently from the question of the genuine link for merchant shipping.

Action 14: Definition of rights and responsibilities of port States

The Community was actively involved in the work led by FAO to establish a model port State scheme, which was adopted by COFI in 2005. The Community also supported the initiative agreed by COFI in 2007 to develop a new legally binding instrument based on the model port State scheme. This model scheme also needs to be promoted for implementation at RFMO level, and initiatives in this respect have been taken by the Community in that respect: this is the case for the NEAFC port scheme which enters into force in 2007, further to a proposal to this end by the Community.

Action 15: Assistance for developing countries to control unlawful fishing

The European Community provides assistance to developing States in various ways to enable them to develop their national capacity to manage and control fisheries resources in a sustainable manner.

In the framework of bilateral fisheries agreements, the European Community finances actions to promote the sustainable development of fisheries in the partner countries and strengthen control and surveillance methods, such as stock assessments, monitoring and control, training, institutional support. When the Community negotiates a new Fisheries Partnership agreement, it makes sure that the agreement includes a protocol on the Vessel Monitoring System. Moreover, whenever possible, bilateral Partnership agreements are integrated into a regional approach. The conclusion of such agreements allows for enhanced regional cooperation. This

is notably the case in the Southwest Indian Ocean, where the Community is supporting the Regional Plan for Surveillance of fishing activities agreed in January 2007, via the financing of MCS actions for an amount of 7 million € over three years.

Through the European Development Fund (EDF), the European Community provides assistance for a range of fisheries initiatives both at national and regional level, in particular with a view to combating IUU fishing. The EC is currently financing about 15 fisheries initiatives in ACP countries, mostly under the 8th and 9th EDF (programming periods 1997-2002 and 2002-2007 resp.), with a total financial envelope of roughly 170 million €. These programmes include specific activities linked to Monitoring, Control and Surveillance. This includes the SADC Monitoring Control and Surveillance of Fishing Activities (8th EDF, 2000-2006, 15 million €) project.

Two other major programmes are still in preparation and will be implemented under the 9th EDF. The first relates to “Strengthening Fisheries Management in ACP Countries” (ACP Fish II – 30 million €) and will aim at improving institutional capacities for sustainable fisheries management in target ACP countries, supporting the elaboration of policies at regional and national level and facilitating regional collaboration by strengthening networks and transfer of skills and knowledge.

A second initiative is planned under the RIP West Africa in support of fisheries management (AGPAO – 5 million €) in the area covered by the Sub-regional Fisheries Commission. The objective would be to reinforce institutional capacities, to contribute to the harmonization of the fisheries policies of the Member States of CSRP and to foster sub-regional cooperation in areas such as research and MCS (combat IUU fishing).