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GDP/RER/010/ITA/TD-14 (rev.1)

*Scientific Cooperation  
to Support Responsible Fisheries in  
the Adriatic Sea*

**General outline of marine capture fisheries legislation and regulations  
in the Adriatic Sea countries**





*SCIENTIFIC COOPERATION TO SUPPORT  
RESPONSIBLE FISHERIES IN THE ADRIATIC SEA*

***MiPAF***

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AdriaMed

GCP/RER/010/ITA

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The conclusions and recommendations given in this and in other documents in the *Scientific Cooperation to Support Responsible Fisheries in the Adriatic Sea* Project series are those considered appropriate at the time of preparation. They may be modified in the light of further knowledge gained in subsequent stages of the Project. The designations employed and the presentation of material in this publication do not imply the expression of any opinion on the part of FAO or MiPAF concerning the legal status of any country, territory, city or area, or concerning the determination of its frontiers or boundaries.

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Preface

The Regional Project “Scientific Cooperation to Support Responsible Fisheries in the Adriatic Sea” (AdriaMed) is executed by the Food and Agriculture Organization of the United Nations (FAO) and funded by the Italian Ministry of Agriculture and Forestry Policies (MiPAF).

AdriaMed was conceived to contribute to the promotion of cooperative fishery management between the participating countries (Republics of Albania, Croatia, Italy, Serbia-Montenegro and Slovenia), in line with the Code of Conduct for Responsible Fisheries adopted by the UN-FAO.

Particular attention is given to encouraging and sustaining a smooth process of international collaboration between the Adriatic Sea coastal countries in fishery management, planning and implementation. Consideration is also given to strengthening technical coordination between the national fishery research institutes and administrations, the fishery organizations and the other relevant stakeholders of the Adriatic countries.

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## GCP/RER/010/ITA Publications

The AdriaMed Project publications are issued as a series of Technical Documents (GCP/RER/010/ITA/TD-00) and Occasional Papers (GCP/RER/010/ITA/OP-00) related to meetings and research organized by or conducted within the framework of the Project.

Occasionally, relevant documents may be translated into national languages as AdriaMed Translations (GCP/RER/010/ITA/AT-00).

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## Preparation of this document

This document, “*General outline of marine capture fisheries legislation and regulations in the Adriatic Sea Countries*”, represents the effort of the FAO AdriaMed Project (*Scientific Cooperation to Support Responsible Fisheries in the Adriatic Sea*) to provide background information on legislative topics of importance to marine capture fisheries in the countries bordering the Adriatic Sea (Albania, Croatia, Italy, Serbia-Montenegro and Slovenia).

The first version of this document was commissioned by the Project in 2002 and carried out by an international legal consultant (Philippe Cacaud); it endeavoured to provide a review on legal issues relating to marine capture fisheries and the role of fisheries legislation in marine fisheries management. This first report (Review of Fisheries Legislation and Regulations in the AdriaMed Countries, October 2002) had restricted distribution in occasion of the 4<sup>th</sup> AdriaMed Coordination Committee meeting in December 2002 (Split, Croatia). The content of this first document was also used in the preparation of the “Fisheries Laws and Regulation in the Mediterranean: a comparative study” (GFCM *Studies and Reviews* No 75), in which the legal aspects of fisheries concerning all the Mediterranean countries is summarised.

This AdriaMed Technical Document was taken principally from that initial compilation, in which many paragraphs including comments or some of the footnotes by the author of the first version remained and unaltered. However changes that have taken place since 2002 are also reflected in this document: new regulations and rules have been adopted by Croatia and Italy, Serbia-Montenegro has joined the AdriaMed Project and Slovenia has become a member of the EU. As a result of the latter, Italian and Slovenian fisheries regimes are described together due to their status as European Union Member States, subject to the same fundamental EU Council regulations. Attention is also paid to relevant differences in the national implementation systems.

This document was fully updated in September 2004, with the support and supervision of each country participating in AdriaMed. Furthermore, the legislation of the Republic of Serbia and Montenegro concerning marine capture fisheries has been integrated.

The AdriaMed Technical document “General outline of marine capture fisheries legislation and regulations in the Adriatic Sea Countries” cannot be, and does not aim to be, exhaustive either in terms of the topics covered or the legislation screened. The document aims to provide useful indications in order to improve understanding of fisheries legislation in marine fisheries management in the Adriatic Sea. The following topics are therefore considered: national participation in international fishery-related conventions and agreements, as well as regional fishery bodies; access regimes to fisheries resources; definitions of terms; management and conservation measures; monitoring, control and surveillance and measures. The document is based on laws, regulations and rulebooks translated into English from the relative national languages; some aspects could therefore be subject to misinterpretation. Moreover, given that the very nature of this document’s subject matter implies frequent

changes and revision at national level, the periodical updating of the content should be considered in the future.

It is hoped that this document will contribute to the strengthening of cooperation between the Adriatic Countries.

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### **ABSTRACT**

The purpose of this paper is to review national marine fisheries legislation and regulations of Albania, Croatia, Italy, Serbia-Montenegro and Slovenia. The review was undertaken in the framework of FAO-AdriaMed Project activities. In particular, the following topics are examined:

a) Country participation in international fishery-related conventions and agreements, regional fishery bodies; b) Access regimes to fisheries resources; c) Definitions of terms; d) Management and conservation measures and e) Monitoring, control and surveillance and measures.

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**ABBREVIATIONS AND ACRONYMS**

ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean and Contiguous Atlantic Area
ALP	Archivio Licenze di Pesca (Archive of Fishery Licences)
CCRF	Code of Conduct for Responsible Fisheries
CFP	Common Fisheries Policy
EEZ	Economic Exclusive Zone
EC	European Community
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
GRT	Gross Registered Tonnage
GFCM	General Fishery Commission for the Mediterranean
ICCAT	International Commission for the Conservation of Atlantic Tunas
LOSC	Law of the Sea Convention of 1982
MCS	Monitoring Control and Surveillance
P.O.	Producers' Organization in the fishing industry
STECF	Scientific, Technical and Economic Committee for Fisheries
TAC	Total Allowable Catch
UN	United Nations

## **Introduction**

The FAO AdriaMed Project (*Scientific Cooperation to Support Responsible Fisheries in the Adriatic Sea*) was conceived to contribute to the promotion of cooperative fishery management between the participating countries, in line with Code of Conduct for Responsible Fisheries (CCRF) adopted by FAO in 1995. The long term objective of the Project is to contribute to encouraging and sustaining the Adriatic nations in formulating and implementing cooperative fishery management plans, with the full and coordinated participation of the national fisheries administrators, research structures, fisheries enterprises and professional fishers as recommended in the CCRF.

The Code of Conduct for Responsible Fisheries contains many provisions concerning the legal aspects related to the conservation of resources and management measures aimed at ensuring the sustainable utilisation of fishery resources. In particular, many recommendations are specifically addressed to the States and regard the development and establishment of the appropriate institutional legal framework defining access to the fisheries resources and fishing grounds, the implementation of management measures and the activities on MCS (monitor, control and surveillance).

The General Fisheries Commission for the Mediterranean, the objectives and functions of which include the promotion of the development, conservation and management of living marine resources, as well as the formulation and recommendation of conservation measures. The GFCM has, since its foundation, taken into due consideration the legal issues related to fisheries; moreover at the 25<sup>th</sup> GFCM meeting in Malta, 2000, the importance of legal aspects was reiterated and it was deemed relevant to include legal studies among the activities to be carried out in the framework of the Scientific Advisory Committee Sub Committee on Economic and Social Sciences.

The review of fisheries legislation and regulations in countries bordering the Adriatic Sea was undertaken in the framework of the AdriaMed Project, which covers Albania, Croatia, Italy, Serbia-Montenegro and Slovenia.

The purpose of this paper is to review national fisheries legislation and regulations of Albania, Croatia, Italy, Serbia-Montenegro and Slovenia. In particular, it will examine the following topics:

- Country participation in international fishery-related conventions and agreements, regional fishery bodies
- Access regimes to fisheries resources
- Definitions
- Management and conservation measures
- Monitoring, control and surveillance and measures

## 1. Countries' participation in international fisheries conventions and agreements and regional fishery bodies

This chapter examines countries' participation in international fisheries-related conventions and agreements as well as in regional fishery bodies and briefly reviews relevant provisions of such conventions and agreements and relevant recommendations adopted by such bodies. It focuses exclusively on international conventions and agreements having a direct impact on the conduct of fisheries operations in the region. However, one should keep in mind that several multilateral environmental agreements, which may indirectly impact on fisheries, have been adopted in the Mediterranean, in particular the Barcelona Convention on the Protection of the Mediterranean Sea against Pollution<sup>1</sup> and its protocols<sup>2</sup> and the Monaco Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean and Contiguous Atlantic Area (ACCOBAMS)<sup>3</sup>. In addition, a sub-regional agreement between Italy and Yugoslavia on the collaboration for the protection from pollution of the waters of the Adriatic Sea and coastal zones was also signed in Belgrade, Yugoslavia, on 14 February 1974<sup>4</sup>. Table 1 below summarizes AdriaMed participating countries' membership to the International Commission for the Conservation of Atlantic Tunas (ICCAT) and their participation to the Law of the Sea Convention of 1982 (LOSC) and the United Nations (UN) Fish Stocks Agreement.

Table 1. AdriaMed participating countries' agreement to the LOSC and the UN Fish Stocks Agreement and membership of ICCAT

COUNTRIES	LOSC	UN Fish Stocks Agreement	ICCAT	GFCM	GFCM (status of acceptance of the amendments, relative to the autonomous budget, 1997, of the GFCM Agreement)
Albania	23 June 2003			10 April 1991	10 October 2003
Croatia	5 April 1995*		20 October 1997	22 May 1995	28 November 2003
Italy	13 January 1995	Signatory (19 December 2003)	6 August 1997**	29 May 1950	23 August 2000
Serbia-Montenegro	12 March 2001	-	-		8 January 2003
Slovenia	16 June 1995*		as EU member state	25 May 2000	29 April 2004

\*Succession

\*\*Currently, Italian participation in ICCAT occurs as an EU Member State for successive European Community accession to ICCAT in November 1997.

<sup>1</sup> The Barcelona Convention was signed on 16 February 1976 and entered into force on 12 February 1978.

<sup>2</sup> In particular, the Protocol concerning Mediterranean Specially Protected Areas adopted in Geneva on 1 April 1982 and which entered into force on 23 March 1986. It is intended that this should be replaced by the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean, which was adopted in Barcelona on 10 June 1995. It is not yet in force.

<sup>3</sup> It was opened for signature on 24 November 1996.

<sup>4</sup> Both Slovenia and Croatia have succeeded in the agreement.

## 1.1 United Nations Convention on the Law of the Sea<sup>5</sup>

The adoption of the LOSC in 1982 has profoundly altered the way of conducting fishing throughout the seas and oceans of the world. By recognizing coastal States' sovereignty beyond their land territory to an adjacent belt of sea (the territorial sea)<sup>6</sup> and by granting coastal states the right to declare an EEZ<sup>7</sup>, the LOSC has deeply affected the freedom of fishing traditionally enjoyed by fishers the world over. Since most fisheries resources occur in coastal areas, their access is now controlled by coastal states through fisheries access agreements or authorization systems. The LOSC recognizes the freedom of the high seas, including the freedom of fishing, insofar as vessels enjoy such freedom in a manner consistent with the conditions laid down by the LOSC and by other rules of international law<sup>8</sup>.

According to Article 122 of the LOSC, the Mediterranean Sea falls into the category of enclosed or semi-enclosed seas. This concept is defined as “a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States”. While, being linked to the Atlantic Ocean through the Gibraltar Strait, the Mediterranean Sea satisfies the first criterion of this definition, it could also meet the requirements of the second should coastal States decide to declare an EZZ off their coasts. The legal implications of the provisions of this article are not significant since the LOSC does not provide for a specific legal regime for these areas. It merely requires States bordering an enclosed or semi-enclosed sea to cooperate with each other, through an appropriate regional organization, in order to, *inter alia*, coordinate the management, conservation, exploration and exploitation of living resources of the sea.

In 1995, the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks was adopted<sup>9</sup>. The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the LOSC<sup>10</sup>. It generally applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond national jurisdiction. However, both its articles 6 and 7 on application of the precautionary principle and the compatibility of conservation and management measures respectively also apply to

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<sup>5</sup> The LOSC was signed on 10 December 1982 in Montego Bay, Jamaica. It entered into force on 16 December 1994.

<sup>6</sup> Article 3 of the LOSC provides that “every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention”.

<sup>7</sup> Article 57 of the LOSC stipulates that “the exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured”. It grants coastal States sovereign rights over fisheries resources therein by providing that “in the exclusive economic zone, the coastal State has: (a) sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil ...” (Article 56).

<sup>8</sup> See Article 87 of the LOSC.

<sup>9</sup> It was adopted on 4 August 1995 and entered into force in December 2001.

<sup>10</sup> Articles 63 and 64 of the LOSC.

the conservation and management of such stocks within areas under national jurisdiction. It provides for mechanisms for international cooperation concerning straddling fish stocks and highly migratory fish stocks and for subregional and regional cooperation in enforcement. It specifies that “in implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a manner consistent with Part IX of the Convention and other relevant provisions thereof” (Article 15). As of writing, none of the States studied in this paper have ratified or acceded to the UN Fish Stocks Agreement. It should be noted that Italy is a signatory to this Agreement (see Table 1 above).

Two regional organizations, namely the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the General Fisheries Commission for the Mediterranean (GFCM), have been set up to deal with fisheries management in the Mediterranean.

## **1.2 International Commission for the Conservation of Atlantic Tunas**

ICCAT was established in 1969 pursuant to the provisions of Article III of the Convention for the Conservation of Atlantic Tunas, which was signed in Rio de Janeiro, Brazil, in 1966. It is responsible for the conservation of tunas and tuna-like species in the Atlantic Ocean and adjacent seas, thus including the Mediterranean. It should be noted that, hitherto, few States bordering the Mediterranean Sea have become members of ICCAT. As shown in Table 1 above, Croatia, Italy and Slovenia adhere to ICCAT. This Commission is authorized, on the basis of scientific evidence, to formulate recommendations designed to maintain the populations of tuna and tuna-like species that may be taken in the Convention area at levels which will permit the maximum sustainable catch (Article VIII.1.a). These recommendations become effective for all Contracting Parties six months after the date of their notification, except for Contracting Parties that have objected to them (Article VIII).

Main ICCAT recommendations that are applicable to the Mediterranean Sea concern the exploitation of bluefin tuna (*Thunnus thynnus*): minimum size-weight (Rec. 74-01), landing certifications the multi-year conservation and management program 2003-2006 (Rec. 02-08), tuna farming (Rec. 02-10).

Concerning Mediterranean Sea closed fishing seasons, it is to note points 7 and 8 of Recommendation 02-08 that establishes:

- Blufin tuna fishing shall be prohibited in the Mediterranean by large-scale pelagic longline vessels over 24 m in length during the period from 1 June to 31 July.
- Purse seine fishing in the Mediterranean shall be prohibited during the period from 116 July and 15 August in order to protect juveniles.

## **1.3 General Fisheries Commission for the Mediterranean**

The agreement establishing the GFCM was approved by the FAO Conference at its 5th session, held in Rome, Italy, in 1949. It came into force on 20 February 1952. The main

purpose of the GFCM is to promote the development, conservation and rational management and best utilization of marine fishery resources in the Mediterranean and the Black Sea. To this end, the GFCM suggests measures for the conservation and management of living marine resources. These measures may, *inter alia*, regulate fishing gear and methods, prescribe the minimum size for individual of specified species of fish, regulate the amount of total allowable catch and fishing effort and their allocation among members of the GFCM, and establish open and closed fishing seasons and areas (Article III.1.b.i). In formulating measures, the GFCM is expected to apply the precautionary approach to conservation and management decisions and take into account the best scientific evidence available and the need to promote the sustainable fishery development in Mediterranean Sea. Member States are required to take all necessary measures to implement binding recommendations, unless they officially object to do so within 120 days from the date of their being notified the recommendation (Article V.3).

In 1995, the GFCM adopted the ICCAT recommendation concerning the conservation and management of bluefin tunas (Resolution n° 95/1). The effect of this action was to extend these recommendations to most Mediterranean coastal States as only a handful of these States are members of ICCAT.

Two other recommendations were adopted in 1997:

- a) Resolution n° 97/1 prohibits the keeping on board or use for fishing of one or more driftnets whose individual or total length is more than 2.5 km. It specifies that “the net must, if it is longer than one kilometer, remain attached to the vessel. However, within the 12-mile coastal band, a vessel may detach itself from the net, provided it keeps it under constant observation”.
- b) Resolution n° 97/3, mirroring ICCAT recommendation 96-2, prohibits the taking of bluefin tuna during the period from August 1 to 31 and the use of airplanes and helicopters in support of such fishing operations in the month of June.

The current version of GFCM agreement was approved by the FAO Council in November 1997 and needed further ratification by the States concerned to accept the autonomous budget. The amendments related to the autonomous budget entered into force.

The GFCM adopted other recommendation such as no. 01-2002 concerning the management of selected demersal and small pelagic species.

Currently the GFCM Members are: Albania, Algeria, Bulgaria, Croatia, Cyprus, the European Community (EC), Egypt, France, Greece, Israel, Italy, Japan, Lebanon, Libya, Malta, Monaco, Morocco, Romania, Slovenia, Serbia and Montenegro, Spain, Syria, Tunisia, Turkey.

## 2. Access regimes to fisheries resources

Since the adoption of the LOSC in 1982, access to fisheries resources occurring within waters under national sovereignty or jurisdiction is controlled by coastal States. As mentioned above, coastal States have so far, for the most part, refrained from declaring an EEZ in the Mediterranean Sea. As a result, waters lying beyond coastal States' territorial waters remain part of the high seas and are thus subject to relevant rules of international law, in particular that of part VII of the LOSC. Likewise, States bordering the Adriatic Sea, which is a narrow body of water, have not yet used their right to declare an EEZ off their coasts<sup>11</sup>.

This chapter will examine for each country the legal regime governing access to fisheries resources occurring within their territorial waters.

### 2.1 Albania

The basic fisheries legislation of Albania is Law No. 7908 of 5 April 1995 on Fishery and Aquaculture as amended by Law No. 8870 of 21 March 2002. It has been supplemented by Fisheries Regulations No. 1 of 26 March 1997.

#### 2.1.1 Commercial fishing licences

##### Principle

Use of any fishing vessel, whether national or foreign, for professional fishing in Albanian waters is subject to a licensing system. Likewise, "any other entity" wishing to conduct professional fishing operations within Albanian waters without using any vessel is required to first obtain a fishing license (article 15.1 of Law No. 7908 of 1995). It should be noted that the term *professional fishing* is defined as encompassing all types of fishing operations for economical purposes, thus including both industrial and artisanal fishing (Article 3 c of Law No. 7908 of 1995). In Albania, industrial fishing means all forms of professional fishing by means of trawl nets or purse seine nets, whereas artisanal fishing covers all forms of professional fishing by means of fixed or selective fishing gear such as hooks, fixed nets, *mrezhat* or *njicat* (Article 1.2 of Fisheries Regulations No.1 of 1997).

No person can use an Albanian vessel to fish outside Albanian waters without having first obtained a special authorization to do so (Article 16.3 of Law No. 7908 of 1995). A special authorization can be granted only to a vessel that complies with seaworthiness and safety requirements. In addition, prior to granting a special authorization to a vessel which was

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<sup>11</sup> It should be noted, however, that in Albania, maritime waters of the Republic are defined as encompassing both the territorial waters and "any other area reserved exclusively for the Republic of Albania" (Article 3 a of Law No. 7908 of 5 April 1995 on Fishery and Aquaculture). It could not be established whether such provision was used by Albania to claim any area beyond its territorial waters. In Croatia, the Marine Fisheries Act of 1997 makes provision stipulating that the concept of "fishing sea" would comprise the EEZ of the Republic of Croatia should the Croatian parliament adopt a decision proclaiming such a zone off Croatian coasts (Article 5). Following the declaration by Croatia of an Exclusive Economic Zone (EEZ) in 2003 election, the maritime border issue became particularly sensitive. The recent involvement of the EU in this issue and Slovenia's accession to the EU in May 2004 is likely to encourage all parties to resolve the issue through constructive dialogue.



previously registered in a foreign country, the competent authority must give due consideration to the vessel past behaviour in order to determine whether it has breached the law of that country and/or undermined international conservation and management measures on the high seas. In case the vessel is reported as a frequent violator of fisheries laws and regulations of third countries and/or of international conservation and management measures on the high seas, it shall be denied the granting of a special authorization, except where the owner or the master of the vessel has no connection with the previous owner or master of the vessel (Article 60 of Fisheries Regulations No. 1 of 1997).

A license is also required for any person wishing to undertake any activity related to fishing, including transportation of fish or other aquatic species or any other supporting activities such as refuelling or supplying of a fishing vessel. However, related fishing activities do not include fish processing (Article 17 of Law No. 7908 of 1995).

Access to fisheries resources within Albanian waters by foreign fishing vessels is authorized:

- (a) through fisheries access agreements concluded between governments of other countries or international fishing organizations and the Republic of Albania; or
- (b) in cases where the issuing of fishing licenses to foreign fishing vessels:
  - (i) is considered beneficial for Albanian economy, in particular where the applicant is committed to undertaking investments in the fishery sector;
  - (ii) is viewed as necessary to ensure sustainable use of fishery resources, taking into account the capacity of the national fishing fleet and its development;
  - (iii) complies with the objectives of the fishery and aquaculture administration plan and with those of the Albanian policy on foreign investments (Article 19.1 of Law No. 7908 of 1995).

No licenses can be issued to foreign fishing vessels in a co-management area unless it is expressly provided for in the relevant co-management plan (Article 19.4 of Law No. 7908 of 1995).

In fisheries co-management areas, licensing is contingent upon decisions made at the local level as reflected in the fisheries co-management plan (Article 31/18 of Law No. 7908 of 1995).

#### Types of licences

A professional fishing license may be issued in respect of a fishing vessel or an individual for the use of a specific fishing gear, in particular fixed or stationary gear. In Albania, lawmakers have made a distinction between fishing vessels equipped with a deck and those with no deck. A separate fishing license is required for each vessel equipped with a deck whereas a single fishing licence may be granted for the use of several vessels with no deck provided that their names are specified in the license (Article 27 of Fisheries Regulations No. 1 of 1997).

## Prerequisites to application

To be eligible for a professional fishing license, every individual or every fishing vessel in respect of which such a license is sought must first comply with registration requirements provided for under Fisheries Regulations No. 1 of 1997.

## Application

Where applying for a professional fishing license, any individual or owner of a fishing vessel must submit an application form<sup>12</sup> to the Directorate of Fisheries together with a certificate of registration (fishing vessel) issued by the Port Authority<sup>13</sup> and a certificate of seaworthiness issued by the Sea Register<sup>14</sup>, if applicable (Article 28.2 of Fisheries Regulations No. 1 of 1997). The application must be submitted to the Directorate of Fisheries at least one month prior to the Licensing Board next meeting (Article 29 of Fisheries Regulations No. 1 of 1997).

## Issuance

Licenses for professional fishing are issued by the Minister responsible for fisheries on the proposal of the Licensing Board. The Licensing Board, which consists of at least five members of the Directorate of Fisheries appointed by the Minister responsible for fisheries, reviews license applications submitted to the Directorate of Fisheries together with the required documents in order to determine whether all requested information have been provided. Upon approval, the Licensing Board proposes to the Minister the names of individuals and vessels to which a license for professional fishing can be issued (Article 31 of Fisheries Regulations No. 1 of 1997).

In order to renew a professional fishing license, the holder of the license must submit an application form to the Directorate of Fisheries together with the requested statistical data. Failure to provide such data would result in refusal to renew the license (Article 32 of Fisheries Regulations No. 1 of 1997).

## Licence Fees

In Albania, annual license fees are determined in relation to the vessel's engine power and the type of gear used on board (Law No. 8435 of 28 December 1998, modified with Law 8713 of 15 December 2000). A distinction is drawn between vessels operating in coastal areas (internal waters, shallow waters) and those operating further out to sea.

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<sup>12</sup> A model is annexed in appendix 1 of the Fisheries Regulations No. 1 of 1997.

<sup>13</sup> The terminology used in the English translation of Article 28.2.b of Fisheries Regulations No. 1 of 1997 is "Headquarters of the Port".

<sup>14</sup> The terminology used in the English translation of Article 28.2.c is "a certificate of sailing from the Sea Register".

## Transfer

Transfer of a professional fishing license is subject to an authorization from the Directorate of fisheries. Such a transfer can be allowed only in the event that: (a) the vessel to which the license was issued has ceased to operate; and (b) the vessel to which it is to be transferred presents similar technical characteristics (Article 35 of Fisheries Regulations No. 1 of 1997).

## Conditions

When issuing or renewing a professional fishing license, the Minister responsible for fisheries may impose conditions on the use of the license with respect to, *inter alia*, fishing zones, fishing gear that can be used, information and statistical data to be provided and the boarding of observers.

Duration of licence must be specified therein.

Albanian fishing vessels in respect of which professional fishing licenses have been issued are required to employ Albanian crews (Article 16 of Law No. 7908 of 1995).

## Cancellation

A professional fishing license is automatically cancelled where the fishing vessel in respect of which it was issued ceases to operate for a period exceeding three months (Article 36 of Fisheries Regulations No. 1 of 1997).

### **2.1.2 Scientific research authorization**

The carrying out of scientific research activities within Albanian waters is subject to an authorization from the Ministry responsible for fisheries on the advice of the Commission for Scientific and Technological Coordination (Article 10 of Law No. 7908 of 1995). No entity other than those officially recognized as research entities by the Minister responsible for fisheries are entitled to apply for a scientific research authorization (Article 11 of Law No. 7908 of 1995). In order to qualify as a research entity, the applicant must be a legal entity and show evidence that its staff satisfies qualification requirements in the relevant fields of expertise (Article 15 of Fisheries Regulations No. 1 of 1997).

### **2.1.3 Sport fishing licenses**

No license is required for sport fishing unless a vessel is used to conduct such fishing operations (Article 23 of Law No. 7908 of 1995). Sport fishing licenses are issued to sport fishing associations or interested persons provided that they show evidence that they meet qualification requirements to carry out sport fishing activities. A licensed association or person may be authorized under the same license to use several vessels. Areas of activity are specified in the license (Article 56 of Fisheries Regulations No. 1 of 1997).

## 2.2 Croatia

The basic fisheries legislation in Croatia is the Marine Fisheries Act of 22 April 1997. It has been supplemented by Regulation on Commercial Fishing of 2000 (83/2000) parts of which has been changed several times (56/01, 69/01, 118/01, 101/02, 72/03, 89/03, 178/03 and 54/04).

### 2.2.1 Commercial fishing licenses

#### Principle

Commercial fishing in Croatian waters is subject to a licensing system established by the Marine Fisheries Act of 22 April 1997. The concept of *commercial fishing* entails all types of catching or collecting of fish or other marine organisms aiming at making profit (Article 3.2 of the Marine Fisheries Act of 1997).

No foreign person is allowed to engage in commercial fishing activities within Croatian waters unless he/she is authorized to do so through an international agreement (Article 71 of the Marine Fisheries Act of 1997).

#### Prerequisites to application

To be eligible for a commercial fishing license, the applicant must show evidence that he/she employs skilled and qualified personnel or that he/she is skilled or qualified himself/herself (Article 10.2 of the Marine Fisheries Act of 1997). In order to do so, a specific program for commercial fishing activities has been designed by the Ministry responsible for marine fisheries. The specific exam program with the method of its execution for pursuing commercial fishing license and the license issuing process has been defined in *Regulation on program exams for pursuing commercial fishing activities* (57/04). A certificate of qualification for commercial fishing is awarded to any person who passes the exam based on this program. It should be noted that such certificate is automatically issued (without taking the exam) to all persons deemed qualified to conduct commercial fishing operations based on the previous legislation. The Ministry responsible for marine fisheries is required to keep a register of all issued certificates (Article 19 of the Marine Fisheries Act of 1997).

#### Application

Where applying for a commercial fishing license, the applicant, whether a physical or legal person, must provide: a) proof of vessel's registration for fishing activities at sea; b) proof of ownership of vessel; c) name and registration's number of vessel for which a commercial fishing license is sought; d) vessel's port of registration; e) engine power's certificate from the manufacturer; f) type and quantity of fishing gear and equipment to be used; and g) zones in which commercial fishing is intended to be undertaken.

In addition, any physical person must provide:

- a) proof of registration in the Register of Crafts and Trade;

- b) the name, surname, address and identification number of the craftsman; and
- c) the name, activity, seat and identification number of the craft;

and any legal person must submit:

- a) a copy from the trade register as validated by the Trade Court;
- b) the name, seat and identification number of the company; and
- c) its code of activity (Article 10 of Regulation on Commercial Fishing License of 19 September of 1997).

Application is made to the field office of the Ministry of Agriculture and Forestry in the coastal counties in which the applicant (physical person) resides or in which it (company) is located. In case the applicant does not reside or is not located in a coastal county, the application can be submitted to any field office (Article 9 of Regulation on Commercial Fishing License of 1997).

#### Issuance

Commercial fishing licenses are issued by the field offices of the Ministry of Agriculture and Forestry in the 7 counties along the Adriatic coast. The relevant field office must issue the license or reject the license application within a month from the date the application was filed (Article 11 of Regulation on Commercial Fishing Licenses of 1997). Each field office is required to keep a commercial fishing license register (Articles 11 and 14 of the Marine Fisheries Act of 1997). Once issued, the commercial fishing license must be kept on board the vessel at all times (Article 15 of the Marine Fisheries Act of 1997).

No commercial fishing license can be issued in respect of a vessel unless the fishing gear, equipment and engine of such a vessel have been inspected by the competent inspectors (Article 12 of Regulation on Commercial Fishing License of 1997). Costs of inspection are borne by the vessel's owner (Article 13 of Regulation on Commercial fishing Licenses of 1997). It is forbidden to use diving equipment (except in fishing and collecting shellfish or corals) and guns for underwater fishing in commercial fishing.

#### Information

Information to be mentioned in the license include vessel's technical characteristics (size of vessel in GT, power of engine in kW, length of vessel), registration number and sign of the vessel, name of the license holder, fishing zones where fishing is permitted and type and quantity of fishing gear that can be carried on board and used from the vessel (Article 11 of the Marine Fisheries Act of 1997 and Article 6.2 of Regulation on Commercial Fishing Licenses of 1997).

#### Licence fees

Commercial fishing licence fees as well as fees derived from other fishing activities are to be determined by the Minister responsible for marine fisheries. Fees are to be used for financing

the development of marine fisheries in general and the monitoring of natural resources' status in particular (Article 46 of the Marine Fisheries Act of 1997).

### Revocation

A commercial fishing license is automatically cancelled when the license holder (company) ceases to exist.

A commercial fishing license can be revoked by the competent issuing authority (field office) where:

- a) it has been determined that the vessel, fishing gear or equipment does not comply with the requirements laid down in fisheries laws and regulations;
- b) it has been determined that the license holder does not employ qualified and skilled personnel nor is qualified and skilled himself/herself; or
- c) it has been determined that the domestic company is controlled by foreign interests (Article 13 of the Marine Fisheries Act of 1997).

### 2.2.2 Small-scale fishing license

#### Principle

No individual is allowed to engage in small-scale fishing within Croatian waters unless he/she has been granted a small-scale fishing license by the competent authority. No individual other than a Croatian citizen is entitled to apply for a small-scale fishing license (Article 22 of the Marine Fisheries Act of 1997). It is important to note that in Croatia small-scale fishing means subsistence fishing<sup>15</sup>. It is strictly prohibited to sell fisheries products from small-scale fishing activities (Article 20 of the Marine Fisheries Act of 1997).

#### Application

Application for a small-scale fishing license is made by the applicant in the coastal field office of the Ministry responsible for marine fisheries in the area of which he/she resides or in whose territory fishing is intended to be undertaken (Article 23 of the Marine Fisheries Act of 1997).

To be eligible for a small-scale fishing license, the applicant must fulfil the following conditions:

- a) be a Croatian citizen;
- b) be at least 15 years old;
- c) be in possession of a small-scale fishing qualification certificate<sup>16</sup>;

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<sup>15</sup> The concept of *small-scale fishing* is defined in Article 3.3 of the Marine Fisheries Act of 1997 and reads as follows: "small-scale fishing is catching of fish and other marine organisms for personal purposes and needs exclusively".

<sup>16</sup> Small-scale fishing qualification certificates are issued to individuals having passed an exam based on the small-scale fishing program designed by the Minister responsible for marine fisheries. Such certificates are issued automatically to applicants more than 65-years old without their having to take the exam. In addition, applicants in possession of a commercial fishing qualification certificate are not required to pass the small-scale fishing exam to conduct small-scale fishing operations (Article 30 of the Marine Fisheries Act of 1997).

- d) be the owner of the vessel, fishing gear and equipment to be used in small-scale fishing or have full control over such vessel, gear and equipment;
- e) show evidence that the fishing gear and equipment to be used in small-scale fishing comply with relevant fisheries regulations;
- f) demonstrate that he/she is not subject to any administrative or criminal sanction preventing him/her from conducting small-scale fishing activities within Croatian waters (Article 23.2 of the Marine Fisheries Act of 1997).

#### Issuance

The competent field office of the Ministry responsible for marine fisheries must approve or reject any application for a small-scale fishing license within a month from submission of a complete application form. Should the competent authority fail to act within such a period, it would be assumed that the application has been approved and that the license has been issued (Article 25 of the Marine Fisheries Act of 1997).

Issuance of a small-scale fishing license is subject to the payment of a fee, the amount of which is determined by the Minister responsible for marine fisheries (Article 22 of the Marine Fisheries Act of 1997). Currently, the annual fee is 1000,00 HRK for persons from 15 to 60 years of life; 500,00 for retired persons or persons above 60 years of life and 150,00 for war invalids (Regulation of 1999 on fees for small-scale fishing). The license is strictly linked with the residence place of the applicant (only people living in coastal areas may apply) and it is allowed to catch a maximum of 5 kilos per day.

No one is allowed to use a small-scale fishing license in more than 3 fishing zones to be specified in the license (Article 27 of the Marine Fisheries Act of 1997).

#### Information

Information to be inscribed in the small-scale fishing license is as follows:

- a) name, address and identity card number of the applicant;
- b) vessel name and port of registration or vessel's registration number, length in meters and tonnage in GT and engine power in kW and HP;
- c) type and quantity of gear and equipment that can be used by the license holder for small-scale fishing operations; and
- d) fishing zones in which the license holder is authorized to operate.

#### Revocation

A small-scale fishing license ceases to be valid upon the death of the license holder, thus indicating that the license is not transferable.

The issuing authority may revoke any small-scale fishing license where:

- a) it has been determined that the license holder does not fulfil all the conditions of eligibility laid down in the Marine Fisheries Act (see paragraph on application above);

- b) it has been determined that the small-scale fishing license was issued based on fake or falsified documents or information; or
- c) the license holder fails to pay the annual license fee for two consecutive years.

Decision of revocation of any small-scale fishing license by the issuing authority can be appealed to the Ministry responsible for marine fisheries (Article 28 of the Marine Fisheries Act of 1997).

### **2.2.3 Sport and recreational fishing licenses**

Any individual, whether a Croatian or a foreign citizen, wishing to engage in sport and recreational fishing activities is required to first obtain a license issued by a field office of the Ministry responsible for marine fisheries (Articles 31 and 71 of the Marine Fisheries Act of 1997). The license for sport and recreational fishing can, upon payment of a fee, be issued for a one-day, three-day, one-week, one-month or one-year period. A one-year sport and recreational fishing license can be issued only to war invalids and members of the Croatian Committee for Sport and Recreational Fishing. Fees have been set as follows:

- a) HRK 60 for a one-day license;
- b) HRK 150 for a three-day license;
- c) HRK 300 for a 7-day license;
- d) HRK 700 for a one-month license;

One-year license is foreseen only for Croatian citizens war invalids and Croatian and foreign citizens with permanent residence in Croatia having membership in Croatian Union for Sport Fishing or Croatian Diving Union. Fees for those license are: HRK 50,00 for war invalids; HRK 30,00 for persons under 18 years of life and HRK 60,00 for retired persons or persons above 60.

A special sport and recreational fishing license for big game fishing is also available for a 30-day period upon payment of HRK 500 fee (Regulation of 1999 on fees and content of application form for marine recreational fishing).

Legal and physical persons authorized by the ministry are allowed to sell one/more-days license for sport and recreational fishing, while one-year license can be issued only by the field office of the Ministry of Agriculture, Forestry and Water Management in the coastal county or in the before mentioned unions. 40 % of means arising from selling license through Unions has to be used in financing the marine protection projects or other defined goals approved by the ministry.

### **2.2.4 Scientific research licenses**

Fishing or gathering of fish or other marine organisms for scientific purposes within Croatian waters is subject to a special license (Article 55 of the Marine Fisheries Act of 1997)<sup>17</sup>.

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<sup>17</sup> According to the English translation provided to the consultant, it would seem that such a special license is required only to grant exemption under the fisheries laws and regulations for scientific purposes such as use of prohibited fishing gear or fishing in prohibited areas.



## 2.3 Serbia-Montenegro

In the Federal Republic of Serbia and Montenegro the activities of Marine Fisheries are under the jurisdiction of the Montenegrin Ministry of Agriculture, Forestry and Water Management. The basic fisheries legislation in Montenegro is the Law on Marine Fishery of 24<sup>th</sup> September 2003. It has been supplemented by detailed regulations concerning fishery activities as four Rulebooks issued in 2004 (55/2003):

- a) The Rulebook on method, type and quantity of fishing tools and gear that can be used in sport-recreational fishing, forms, number and contents for the sport fishing permits;
- b) The Rulebook on form, contents and keeping of registers on fishing or cultivation activities;
- c) The Rulebook on setting of the lines where water ceases to be constantly salt in rivers that flow into the sea and setting of boundaries of fishery reserves;
- d) The Rulebook on terms, restrictions and order in fishing operations in specific fishing areas or zones.

In addition a decree was issued in 2004, entitled: Decree on prohibition of catch and trade in fish juveniles, undersized fish and other marine organisms (10/2004).

### 2.3.1 Commercial fishing licenses

#### Principle

Commercial fishing in Montenegrin waters is subject to a licensing system established by the Law on Marine Fishery of 24 September 2003. The concept of *commercial fishing* implies fishing for profit-making purposes (Article 9 of the Law on Marine Fishery of 2003).

Companies and entrepreneurs can engage in commercial fishing if they are registered to carry out this activity and have been issued with a permit for commercial fishing (Article 10 of the Law on Marine Fishery of 2003).

#### Prerequisites to application

Professional capability for carrying out commercial fishing is tested in an examination. The programme for examination to carry out commercial fishing is laid down by the Ministry. Professional capability is checked by a special expert commission appointed by the Ministry (Article 18 of the Law on Marine Fishery of 2003). Permits to carry out commercial fishing can be issued if the following conditions are met:

1. A permit on technical-technological equipment and capacities of the fishing vessel issued by the Institute of Marine Biology;
2. Employment of persons professionally trained to carry out commercial fishing or are trained to carry out commercial fishing themselves;
3. A statement from the port master's ship register, i.e., the sailing permit together with the certificate stating that the fishing ship, ship 'lute' or boat is registered for commercial fishing (Article 10 of the Law on Marine Fishery of 2003).

## Application

The application for a commercial fishing license must contain the following:

- a) The name of the company, i.e., name of the entrepreneur that is being issued with the permit to carry out large-scale or small-scale commercial fishing;
- b) The name or register mark of the vessel or a number of vessels if the nature of the commercial fishing implies participation of more than one vessel for these commercial fishing operations;
- c) The fishery area or zone where commercial fishing is permitted;
- d) The purpose, kind, technical characteristics and quantities of fishing tools and gear for commercial fishing operations;
- e) The size of the vessel and horsepower of the engine of the vessel;
- f) The total amount of the fee (Article 11 of the Law on Marine Fishery of 2003).

## Issuance

The permit for commercial fishing is issued by the Ministry on the basis of an advertisement published in public papers. The permit stated in paragraph 1 of this Article is issued separately for every vessel. In case of change in the company or owner of the vessel a new permit for commercial fishing is issued in compliance with the terms laid down. Permits stated in paragraph 1 of this Article are entered in the register of permits issued and which is kept by the Ministry (Article 11 of the Law on Marine Fishery of 2003). The permit for commercial fishing must always be kept on board (Article 16 of the Law on Marine Fishery of 2003). During fishing operations, the persons stated in paragraphs 1 and 2 of this Article must always have with them the certificate on professional capability to carry out commercial fishing (Article 17 of the Law on Marine Fishery of 2003).

## License fees

The fee for carrying out commercial fishing is laid down by the Ministry (Article 11 of the Law on Marine Fishery of 2003).

Depending on the type and capacity of fishing vessels as well as the significance of the commercial fishing, the fee paid to carry out commercial fishing is established. Separate fees by type and capacity of the fishing vessel as well as by significance of the fishing are laid down by the Ministry (Article 13 of the Law on Marine Fishery of 2003).

### **2.3.2 Sport and recreational fishing licenses**

The permit for sport-recreational fishing is issued by the authority of local self-management in charge of sport and recreation affairs (Article 20 of the Law on Marine Fishery of 2003; Article 5 of the Rulebook on method, type and quantity of fishing tools and gear that can be used in sport-recreational fishing, forms, number and contents for the sport fishing permits N.325/04-0506-07/06) The permit for sport-recreational fishing can be permanent and temporary (Article 19 of the Law on Marine Fishery of 2003).

The permanent permit for sport-recreational fishing is issued for the current calendar year, while temporary permits are issued for the maximum period of 30 days. Temporary permits for sport-recreational fishing can also be issued to persons who do not have the citizenship of Serbia-Montenegro (Article 23 of the Law on Marine Fishery of 2003).

The permit for sport-recreational fishing can only be used by its holder: the holder must have the permit with him when carrying out sport fishing. A fee to carry out sport-recreational fishing must be paid and it is defined by the competent authority of local self-management, depending on the validity period of the permit and age of sport fishermen (Article 19 of the Law on Marine Fishery of 2003).

### **2.3.3 Scientific research licenses**

In cases when, for the purpose of scientific researches, catching or collecting of fish and other marine organisms is done contrary to terms laid down by this Law and regulations adopted on the basis of this Law it is necessary to acquire a permit from the Ministry (Article 43 of the Law on Marine Fishery of 2003).

## **2.4 Italy and Slovenia as European Union member states**

### **2.4.1 EU Council regulations relevant for Adriatic Member States**

The EU Council has the general competence for fishery management regulations, that means European Commission and Member States have implementation functions.

EU Council regulations are self-executing in Member States. So EU Council regulations represent the fundamental corpus of rules applied by Italian and Slovenian fishing fleets.

Member States may take measures for the conservation and management of stocks in waters under their sovereignty or jurisdiction provided that:

- (a) they apply solely to fishing vessels flying the flag of the Member State concerned and registered in the Community or, in the case of fishing activities which are not conducted by a fishing vessel, to persons established in the Member State concerned; and
- (b) they are compatible with the objectives set out in the Common Fishery Policy and no less stringent than existing Community legislation.

Concerning sustainable fishery development in the Adriatic Sea and in other Mediterranean waters, it is necessary to take note of the following basic regulations:

- Council Reg. 3690/1993/EEC;
- Council Reg. 1626/1994/EEC;
- Council Reg. 2371/2002/EC.

The paragraph concerning access regimes to fishery resources (commercial fishing licenses, recreational fishing and scientific permits) explains above all Council Reg. 3690/1993/EEC and the Article 17 Reg. 2371/2002/EC.

Council Reg. 1626/1994/EEC and other norms of Council Reg. 2371/2002/EC shall be discussed in detail in the following paragraphs.

#### **2.4.2 Commercial fishing licenses**

Council Reg. 3690/1993/EEC (Art. 2 and 3) fix the minimum information to be mentioned in the license: size of vessel in GT, power of engine in KW, length of vessel, EU registration number, name of the license holder, fishing zones and gear that can be carried on board and used from the vessel. Inside or outside European waters, no vessel can be used for commercial fishing purposes without first having been granted a license by a Member State as a 'flag State'.

Council Reg. 2371/2002/EC repeals Council Reg. 3760/92/EEC and concerns the conservation and sustainable exploitation of fisheries resources under the newly adopted Common Fisheries Policy (CFP) whose objective should therefore be to provide for the sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner. The scope of CFP is followed according to the precautionary principle referred to in Article 174 of the European Treaty and bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea, without prejudice to the primary responsibility of the flag State.

Article 17 of Reg. 2371/2002/EC establishes the following general rules on access to waters and resources:

1. Community fishing vessels shall have equal access to waters and resources in all Community waters other than those referred to in paragraph 2, subject to the measures adopted under Chapter II.
2. In the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States shall be authorised from 1 January 2003 to 31 December 2012 to restrict fishing to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned.
3. By 31 December 2011 the Commission shall present to the European Parliament and the Council a report on the arrangements set out in this paragraph. The Council shall decide before 31 December 2012 on the provisions which will follow the abovementioned arrangements.'

#### **2.4.3 Sport or recreational fishing and scientific research permits**

To date the EU Council has not introduced relevant regulations on this matter. There are some guidelines and general advice to control sustainability and to collect data, above all for species managed by international commissions such as ICCAT.

## 2.4.4 Italian implementation system

### 2.4.4.1 Professional fishing fleet and license system

As a member of the EU, Italy is subject to the EU Council regulations mentioned. Council Regulation (EC) No. 3760/92 of 20 December 1992, as modified by Council Regulation (EC) 2371/2002, establishes a Community system for fisheries and aquaculture which states that “all Community fishing vessels shall be required to have a fishing licence, which is attached to the vessel” (Article 5.1). It further specifies that “the licensing system shall apply to all Community fishing vessels in the Community fishing waters or operating in the waters of third countries or on the high seas” (Article 5.2).

As a result, no Italian fishing vessel is allowed to operate within or outside Italian waters without license to do so. This rule is endorsed nationally by Italian laws No. 963/1965 and No. 41/1982 and now, according to the EU Regulation, it has been confirmed by the Italian Legislative Decrees adopted during the year 2004: n.153/2004 (Article 4) and n. 154/2004 (Article 12, p. 5).

Access to fishery resources in EU waters by third country vessels may be granted in the framework of a fisheries access agreement concluded between the EU and other States (that are not EU members)<sup>18</sup>.

The Legislative Decrees mentioned, n. 153/2004 and n. 154/2004, came into force in June 2004 and represent the new basis for the reform of the Italian fishery system. The Italian fishing vessel license is granted by the Director General for Fisheries and Aquaculture.

Information to be mentioned in the license includes the vessel’s technical features, the owner’s personal details and types of fishing gear that can be carried on board and used from the vessel. Any change in vessel’s ownership, any modification in vessel’s technical features or any variation in the type of fishing gear to be used from the vessel is subject to prior approval from the Directorate General of Fisheries and Aquaculture.

All data on the Italian fishing fleet are reported in national informative archives (“Archivio Licenze di Pesca” - ALP); in the European Community archives exist to monitor fishing capacity and fishing effort.

#### Prerequisites and conditions for fishing vessels and professional fishermen

Fishing licenses are granted for the use of a particular type of fishing gear. Italian legislation recognizes only 12 separate categories of fishing gears that have been classified in the Ministerial Decree of 26 July 1995 according to international and European standards for sustainable fishery practices.

Fishing gears not listed in Article 11 of the Decree of 26 July 1995 are considered forbidden. Each professional fishing vessels can only be authorized to use a closed and restricted number of listed gears that are reported on license; no fishing gear or tools other than those mentioned in the license must be carried on board the authorized vessel.

It is not possible to have a fishing license *ex novo* according to Reg. EC 2371/2002, a license shall be granted for a new vessel only when a fishing vessel, with same structure, is sent for

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<sup>18</sup> It does not apply to member countries’ territorial waters.

demolition or destination to other uses (e.g. transportation). Article 13 of Reg. CE 2371/2002 establishes the following 'Entry/Exit scheme and overall capacity reduction':

Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:

- (a) the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal, without public aid, of at least the same amount of capacity,
- (b) the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
  - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
  - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT.

#### Prerequisites for Professional Fishers

No person may engage in professional underwater fishing without an authorization issued by the Italian Coast Guard authority after the evaluation of professional qualification standards.

#### Duration and fee

Italian fishing licenses are issued for eight years and the relative fee is calculated according to the fishing system authorized, this entails a higher fee for the principal commercial fishing systems that increase fishing effort. The raising of fees is one of the dissuasive mechanisms applied in order to encourage the use of sustainable fishing gears only.

#### Suspension or revocation

Italian Ministerial Decree of 26 July 1995 (Article 6) establishes that the license ceases to be valid for the following reasons:

- a) breaking-up or ceasing of the holder's activity, if this is a legal entity;
- b) voluntary abandonment of the activity of fishing;
- c) ceasing of fishing activity (confirmed by the missed application for renewal of the license, within six months of the expiry of its period of validity; when the vessel has been dismantled for at least 3 years or following sinking);
- d) not communicating the following events to the Ministry within the time limit of 120 days: transfer of the registration in the commercial fishing register of other maritime district (Capitaneria di Porto) and variation of the elements considered as essential by EC Regulation.
- e) not communicating the licence holder's death to the Minister, in the case that the holder is an individual, within the time limit of 180 days.

Presidential decree 1639/68 also fixed the suspension or revocation of the fishing license as an additional sanction against the illegal fishing activity as listed by Law 963/65 and modified by legislative decree n. 153/04.

#### ***2.4.4.2 Sport and recreational fishing permits***

No authorization is required to engage in sport or recreational fishing within Italian waters. However, time, area and gear restrictions apply to this type of activities (Presidential Decree No.1639/1968). In addition, individuals involved in sporting competitions are required to be members of a national sport fishing federation and to report catch data. The new Legislative Decree n. 153/2004 (Article 1) requires the Italian Government to reform the rules on sport fishery not later than June 2005.

#### ***2.4.4.3 Scientific research permits***

The Scientific Institutes working in marine and fisheries research are listed and fishing operations for scientific reasons need specific authorization by the Director General for Fisheries and Aquaculture.

### **2.4.5 Slovenian implementation system**

In Slovenia, the basic fisheries legislation is the Marine Fisheries Act of 2002<sup>19</sup>.

#### ***2.4.5.1 Commercial fishing permits***

##### Principle

Commercial fishing within Slovenian waters is subject to a licensing system (Article 17 of the Marine Fisheries Act of 2002).

The Marine Fisheries Act of 2002 establishes two broad categories of commercial fishing permits:

- a) regular commercial fishing permits to operate within Slovenian waters; and
- b) special commercial fishing permits authorizing commercial fishing activities: (i) in areas in which or periods during which fishing is otherwise prohibited in accordance with the provisions of the Marine Fisheries Act of 2002; or (ii) in accordance with international treaties to which Slovenia is a party (Article 24 of the Marine Fisheries Act of 2002).

##### Application

Application for a commercial fishing permit is made to the Ministry responsible for marine fisheries. In order to be eligible, any applicant must fulfil the following conditions:

- a) where the applicant is a natural person:
  - (i) he/she must be a Slovenian citizen;
  - (ii) he/she must satisfy professional qualification standards<sup>20</sup> to conduct commercial fishing operations;

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<sup>19</sup> It was enacted on 12 June 2002 and published in the Official Journal on 4 July 2002.

<sup>20</sup> A commercial fishing training program has been designed by the Ministry responsible for marine fisheries in order to ensure adequate knowledge and skills in the conduct of commercial fishing operations. Upon

- (iii) he/she must use a fishing vessel meeting required technical standards;
  - (iv) he/she must not be prohibited from engaging in commercial fishing activities pursuant to any legal decision or ruling issued by a court of law or by any other competent authority;
- b) where the applicant is a legal person:
- (i) its head office must be located in the Republic of Slovenia;
  - (ii) it must be registered as a fishing company;
  - (iii) it must employ at least one person satisfying professional qualification standards to conduct commercial fishing operations;
  - (iv) it must use fishing vessels meeting required technical standards;
  - (v) it must not be prohibited from engaging in commercial fishing activities pursuant to any legal decision or ruling issued by a court of law or any other competent authority (Article 17 of the Marine Fisheries Act of 2002).

### Issuance

Commercial fishing permits are issued by the Minister responsible for marine fisheries (Article 17 of the Marine Fisheries Act of 2002). A separate commercial fishing permit is issued in respect of each vessel for which such a permit is sought (Article 18 (2) of the Marine Fisheries Act of 2002).

Special commercial fishing permits are issued by the Minister responsible for marine fisheries on the basis of a valid commercial fishing permit or of an international treaty to which Slovenia is a party. Several commercial fishing permits may be issued in respect of one fishing vessel (Article 25 of the Marine Fisheries Act of 2002).

### Conditions of use

No fishing gear or tools other than those mentioned in the commercial fishing permit must be carried on board the authorized vessel (Article 18 (9) of the Marine Fisheries Act of 2002).

The commercial fishing permit must be kept on board the vessel at all times (Article 18 (8) of the Marine Fisheries Act of 2002).

No authorized vessel must engage in commercial fishing within Slovenian waters, unless there is at least one professionally qualified person on board (Article 18 (7) of the Marine Fisheries Act of 2002).

### Duration

Commercial fishing permits are issued for an indefinite period of time (Article 20 of the Marine Fisheries Act of 2002).

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satisfactory completion of the program, which requires the passing of an exam, trainees are issued a commercial fishing certificate (Article 23 of the Marine Fisheries Act of 2002).



## Transfer

Commercial fishing permits are not transferable (Article 18 (3) of the Marine Fisheries Act of 2002).

## Suspension or revocation

A commercial fishing permit ceases to be valid upon:

- a) the death of the permit holder (natural person);
- b) the cessation of any commercial fishing activity;
- c) the sale of the vessel in respect of which the permit was issued;
- d) the leasing of the vessel in respect of which the permit was issued (Article 21 (1) of the Marine Fisheries Act of 2002).

A commercial fishing permit must be revoked where:

- a) the permit holder fails, within 14 days, to inform the Ministry responsible for marine fisheries of the sale or lease of the fishing vessel or the cessation of commercial fishing activities;
- b) the permit holder fails at least twice to comply with any condition inscribed in the permit;
- c) the permit holder fails at least twice to report information on fishing activities; and
- d) the permit holder violates at least twice the provisions governing the common organization of the fishing market (Article 21 (2) of the Marine Fisheries Act of 2002).

A commercial fishing permit is suspended for a 3-month period where the permit holder has committed the following violations:

- a) keeping prohibited fishing gear and tools on board the vessel;
- b) fishing using prohibited gear and tools;
- c) using, without a permit, dredges for commercial fishing operations within Slovenian waters;
- d) using fishing gear or tools other than those specifically authorized on the permit;
- e) fishing for juvenile fish without a permit;
- f) using, without a permit, dragged gear within a three-mile band measured from the coastline;
- g) fishing using dragged gear above blossoming aquatic vegetation;
- h) conducting commercial fishing operations within a fisheries reserve without a special commercial fishing permit;
- i) navigating through a fisheries reserve without a special authorization to do so;
- j) failing to report required fishing information;
- k) failing to embark a professionally qualified person;
- l) engaging in commercial fishing without a special permit where required;
- m) failing to comply with any condition inscribed in a special commercial fishing permit (Articles 21 (1) and 95 of the Marine Fisheries Act of 2002).

In addition to the fine imposed on a permit holder for the violation of any provision of the Marine Fisheries Act of 2002, a court of law or any another competent authority may suspend

a commercial fishing permit for such period of time as it may deem fit (Article 21 (2) of the Marine Fisheries Act of 2002).

A special commercial fishing permit ceases to be valid upon expiry of the period for which it was issued. Violation of any condition inscribed in the special commercial fishing permit results in such a permit to be automatically revoked (Article 26 of the Marine Fisheries Act of 2002).

#### ***2.4.5.2 Sport and recreational fishing permits***

A sports fishing permit is required to engage in sport fishing within Slovenian waters, whereas a daily or weekly fishing ticket is required for any person wishing to engage in recreational marine fishing within those waters. It should be noted, however, that no permit or ticket is required for engaging in sport and recreational fishing activities from the shore (Article 28 (7) of the Marine Fisheries Act of 2002). An underwater sports fishing permit is required to engage in sport fishing using an underwater gun (Article 29 of the Marine Fisheries Act of 2002).

To be issued a sports fishing permit a person must be a member of a sport marine fishing organization belonging to the national federation of sport marine fishing organizations (Article 28 (3) of the Marine Fisheries Act of 2002). Likewise, a person wishing to apply for an underwater sport permit must be a member of a sport fishing organization (Article 29 (3) of the Marine Fisheries Act of 2002).

Issuance of a sport fishing permit and of a recreational fishing ticket are subject to the payment of a fee to be determined by the Minister responsible for marine fisheries (Article 28 (5) of the Marine Fisheries Act of 2002).

#### ***2.4.5.3 Scientific research permits***

No person is allowed to conduct scientific research operations within Slovenian waters without having first obtained a non-commercial fishing permit issued by the Minister responsible for marine fisheries (Article 27 (2) of the Marine Fisheries Act of 2002).

### **3. Definitions of terms**

Inclusion of definitions of key concepts and terms in basic fisheries legislation is primarily designed to facilitate the good understanding of the Act and thus avoid any problem of interpretation in implementing the provisions of this Act. In addition, it enables lawmakers to modify (restrict or broaden) the meaning of common words for the specific purpose of the Act and implementing regulations. For instance, the meaning of the word *fish* is commonly broadened so as to include not only fish, but also crustaceans, molluscs and other types of aquatic organisms.

Key concepts and terms that are examined in this chapter are as follows: national waters, aquatic species, fishing, commercial fishing, artisanal fishing, fishing vessel, national vessel, foreign vessel.

### 3.1 Albania

In Albania, lawmakers have combined the definitions of both terms *waters of the Republic of Albania* and *aquatic species* to determine the scope of Law No. 7908 of 1995. The geographical scope of the law, which is defined by the former, extends to both maritime and inland waters under national jurisdiction thus indicating that the law is conceived to regulate both marine and inland fishing activities. Territorial jurisdiction over fisheries resources may also extend to “any other area reserved exclusively for the Republic of Albania” beyond Albanian territorial waters. The latter determines the species that are covered by the law. The term *aquatic species*, provided for under article 3d of Law No. 7908 of 1995, is broadly defined as it covers both aquatic fauna and flora, whether living or dead, at every stage of their life cycle. It includes “fishes, crustaceans, shellfishes, corals, sponges, amphibians, aquatic reptiles, aquatic mammals and other species, except fowls”. By excluding fowls from the definition, lawmakers make clear that the law also applies to aquatic birds.

The concept of *fishing*, which is defined as “every activity conducted for catching or collecting aquatic species, except those resulting from aquaculture activities irrespective of the means used and catch results” (Article 3b of Law 7908 of 1995), is strictly limited to the taking and harvesting of aquatic species thus excluding the searching for fish from fishing activities.

The definition of the term *vessel* is crucial especially in countries where access to fisheries is based on a licensing system linked to the vessel. Albanian basic fisheries law contains three definitions related to this concept, namely *navigating vessel*, *Albanian vessel* and *foreign vessel*. It is interesting to note that no definition of *fishing vessel* is provided for under the law. The term *navigating vessel* covers the entire range of ships, boats or floating devices used for navigation purposes (Article 3dh of Law No. 7908 of 1995). Since Albanian and foreign vessels are subject to separate legal regimes, it was necessary to include a precise definition of both these terms. To be regarded as an Albanian vessel for fisheries purposes, a vessel must be owned by:

- any physical persons with Albanian citizenship living in Albania;
- any juridical persons, established in the Republic of Albania in conformity with legislation in force;
- any other entity distinct from a juridical person, including exclusively physical persons with Albanian citizenship, living in Albania and registered in conformity with legislation and regulations in force (Article 3e of Law No. 7908).

Vessels that do not meet the above-mentioned criteria fall into the category of foreign vessels.

*Professional fishing* entails all fishing activities for economical purposes and includes both *industrial* and *artisanal fishing* activities. Differentiation between industrial and artisanal

fishing is based on the type of fishing gear used by the license holder. All forms of trawling and purse seining, irrespective of the technical characteristics of the nets that are used, are regarded as industrial fishing activities. Artisanal fishing on the other hand covers all forms of fishing activities by means of fixed or selective gear such as hooks, fixed nets, *mrezhat* and *njicat* (Article 2 of Fisheries Regulations No. 1 of 1997).

### 3.2 Croatia

In Croatia, lawmakers used the concept of *fishing sea* to determine the geographical scope of the Marine Fisheries Law of 1997, which extends to the outer limit of the Croatian territorial waters. As mentioned earlier in this document, it contains language specifying that the term *fishing sea* should be construed as including the Croatian EEZ should such a zone be proclaimed off the coast of the Republic of Croatia (Article 5 of the Marine Fisheries Act of 1997). Concerning the Croatian EEZ, it is important to mention that Croatian Maritime Code adopted in 1994 has already regulated the possibilities and the legal framework of the Croatian EEZ in the Adriatic Sea (Articles 33 to Article 42) leaving its final proclamation for subsequent decision of the Croatian Parliament. Based on the Article 1042 of the Croatian Maritime Code and Article 55 of the Law of the Sea Convention (1982), Croatian Parliament proclaimed the extension of jurisdiction to the Ecological and Fisheries Protected Zone on the 3<sup>rd</sup> of the October 2003. In that zone the Republic of Croatia has the sovereign rights to explore and exploit, conserve and manage the living resources beyond the outer limits of the territorial sea. The Decision includes the Parliament right to proclaim, when it deems appropriate, the other elements of the EE Zone. The implementation of the legal regime shall commence 12 months after the decision on the expansion.<sup>21</sup>

The fishing sea comprises both the inner and outer fishing sea. It is not quite clear whether the terms *inner fishing sea* and *outer fishing sea* used by lawmakers in the definition refer to the internal waters and the territorial sea respectively as defined in the Law of the Sea Convention of 1982<sup>22</sup>. The explanation on the terms *inner* and *outer* fishing sea as given in Regulation on borders in fishing sea of Republic of Croatia (46/96). In Article 3 the outer fishing sea, at present, is defined as a marine area which extends from initial coastal line to the border of the territorial sea. The initial lines are strictly described from point to point on the coastal land and on the island. The inner sea is a marine belt between the initial lines and the coast. Also, the inner and outer fishing seas are divided into 7 fishing zones.

In order to determine the nature of the species to which the Marine Fisheries Act of 1997 applies, lawmakers have used two terms *fish* and *other marine organisms* (Ordinance on fish and other maritime organism protection (101/02)). The former is not specifically defined in the Act as it refers to fish as generally understood, whereas the latter is defined as “apart from fish, all marine organisms which are an object of interest for marine fisheries” (Article 3.14 of the Marine Fisheries Act of 1997). This definition is very broad and can be easily interpreted as it hinges on the concept of “object of interest for marine fisheries”, which has not been clarified. Therefore, the term *other marine organisms* entails all types of marine

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<sup>21</sup> Following agreements reached it has been decided not to implement the measures on EU vessels until a partnership agreement for fisheries had been made.

<sup>22</sup> See Articles 2 and 8 of the Law of the Sea Convention of 1982.

organisms (except fish), whether flora or fauna, insofar as they are an “object of interest for marine fisheries”.

The Marine Fisheries Act of 1997 differentiates the act of fishing from that of collecting based on whether fishing gear is used or not. The term *fishing* means “the activity of catching fish and other marine organisms by using fishing gear and equipment”, whereas the term collecting is “the activity of collecting fish and other marine organisms without the usage of fishing gear”. Considering that the term *fishing gear* is defined as “the means of fishing (tools) employed in fishing”, it can be inferred from these definitions that collecting of fish and other organisms refers to the harvesting of such fish and organisms by hands or by means of tools other than fishing gear (tools not usually used for fishing).

In Croatia, the concept of *vessel* has been simply defined as “a ship or boat used and intended for fishing”. The Marine Fisheries Act of 1997 does not contain any definition of national or foreign fishing vessel.

*Commercial fishing* encompasses all activities of “catching and collecting of fish and other marine organisms” which are undertaken for commercial purposes (making profit), whereas *small-scale fishing* is the “catching of fish and other organisms” undertaken exclusively to satisfy personal needs and does not include the sale of fish (Articles 2 and 20 of the Marine Fisheries Act of 1997).

### **3.3 Serbia-Montenegro**

In Montenegro, law-makers used the concept of *fishery sea* to determine the geographical scope of the Law on Marine Fishery of 2003, which extends to the outer limit of the Montenegrin territorial waters; (the “fishery sea” of the Republic of Montenegro comprises the part of the coastal sea and epi-continental strip of Serbia-Montenegro situated within the boundaries of the Republic of Montenegro (Article 2 of the Law on Marine Fishery of 2003). Marine fisheries, in terms of this Law, is the management of biological marine resources including catch, cultivation and protection of fish and other marine organisms (Article 1 of the Law on Marine Fishery of 2003). Marine fishing means the capture, breeding, and collecting of fish and other marine organisms. (Article 5 of the Law on Marine Fishery of 2003).

Fish and other marine organisms in the fishery sea of the Republic of Montenegro as common goods enjoy special protection and are used in a way and under terms laid down by this Law and other regulations.

In Montenegro, the concept of *commercial fishing* simply implies fishing for profit making purposes (Article 9).

The concept of the *fishing vessel* is not defined: a vessel is a ship, boat or small submarine intended for marine fishing and collecting of marine organisms (Article 4 of Law on Marine Fishery of 2003). The Law does contain any definition of national or foreign fishing vessel.

The concept of *artisanal fishing* is not defined but the term small-scale commercial fishing is used, which includes: fishing with set nets; fishing with traps for catching fish; fishing with harpoons with or without the use of artificial lights; fishing with long-lines and other angling tools; fishing with shore seines – ‘kogola’; fishing with ‘kalimera’ (a small wooden cabin with nets used for fishing in southern parts of the Montenegrin coast) and hand dredge called ‘grib’; collecting of shells (Bivalvia) (Article 15 of Law on Marine Fishery of 2003).

### **3.4 Italy and Slovenia as European Union member states**

Council Reg. 2371/2002/EC repeals Council Reg. 3760/92/EEC and concerns the conservation and sustainable exploitation of fisheries resources under the new adopted Common Fisheries Policy (CFP), whose objective should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner. The scope of CFP is followed according to the precautionary principle referred to in Article 174 of the European Treaty and bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea, without prejudice to the primary responsibility of the flag State.

Article 3 establishes the following definitions:

- (a) "Community waters" means the waters under the sovereignty or jurisdiction of the Member States with the exception of waters adjacent to the territories mentioned in Annex II to the Treaty;
- (b) "living aquatic resources" means available and accessible living marine aquatic species, including anadromous and catadromous species during their marine life;
- (c) "fishing vessel" means any vessel equipped for commercial exploitation of living aquatic resources;
- (d) "Community fishing vessel" means a fishing vessel flying the flag of a Member State and registered in the Community;
- (e) "sustainable exploitation" means the exploitation of a stock in such a way that the future exploitation of the stock will not be prejudiced and that it does not have a negative impact on the marine eco-systems;
- (f) "fishing mortality rate" means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (g) "stock" means a living aquatic resource that occurs in a given management area;
- (h) "fishing effort" means the product of the capacity and the activity of a fishing vessel; for a group of vessels it is the sum of the fishing effort of all vessels in the group;
- (i) "precautionary approach to fisheries management" means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- (j) "limit reference points" means values of fish stock population parameters (such as biomass or fishing mortality rate), which should be avoided because they are associated with unknown population dynamics, stock collapse or impaired recruitment;

- (k) "conservation reference points" means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example with respect to an acceptable level of biological risk or a desired level of yield;
- (l) "safe biological limits" means indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points;
- (m) "catch limit" means a quantitative limit on landings of a stock or group of stocks over a given period unless otherwise provided for in Community law;
- (n) "fishing capacity" means a vessel's tonnage in GT and its power in kW, as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86(9). For certain types of fishing activity, capacity may be defined by the Council using for example the amount and/or the size of a vessel's fishing gear;
- (o) "exit from the fleet" means the removal of a fishing vessel from the fishing fleet register of a Member State, provided that Article 15(1) is complied with;
- (p) "entry into the fleet" means the registration in the fishing fleet register of a Member State of a fishing vessel;
- (q) "fishing opportunity" means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (r) "Community fishing opportunity" means the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside Community waters, less the Community fishing opportunities allocated to third countries.

### 3.4.1 Italy

Besides the EU Council definitions mentioned, it is interesting to note that Italian legislation defines the concept of *artisanal fishing* as fishing activities within 6 miles of the coast using vessels less than 10 GRT and subject to a separate type of social security regime governed by Law n° 250/58 of 1958.

### 3.4.2 Slovenia

The geographical scope of the Marine Fisheries Act of 2002 extends to the internal and territorial waters of the Republic of Slovenia as mentioned in the definition of the term *fishing area* (Article 4 of the Marine Fisheries Act of 2002). This definition, however, does not include areas in which fishing is prohibited in terms of this Act or other regulations. The Marine Fisheries Act of 2002 applies to all marine organisms, including fish, crustaceans, molluscs, and other aquatic fauna and flora that are "actually or potentially accessible by means of fishing"<sup>23</sup>.

*Fishing* is defined as "the catching and gathering of marine organisms" (Article 4 of the Marine Fisheries Act of 2002). The Marine Fisheries Act of 2002 distinguishes commercial fishing activities from non-commercial fishing activities but does not provide for specific definitions of these two concepts.

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<sup>23</sup> See the definition of the term *fishery resources* in Article 4 of the Marine Fisheries Act of 2002.

The concept of *fishing vessel* is defined as any “vessel intended and equipped for commercial fishing” (Article 4 of the Marine Fisheries Act of 2002). The Act does not contain any definition of national or foreign fishing vessel.

## **4 Conservation and management measures**

This chapter examines, for each country studied in this paper, conservation and management measures that have been adopted to implement national policies for responsible conservation of fisheries resources and fisheries management and development.

### **4.1 Albania**

#### **4.1.1 Planning instruments**

##### **a) National fisheries plans**

Law No. 7908 of 1995 establishes two planning instruments for the conservation, management and development of fisheries resources, namely the Fishery and Aquaculture Administrative Plan and the Fisheries and Aquaculture Development Plan (Articles 8 and 9).

The Fishery and Aquaculture Administrative Plan, which is conceived as a dynamic instrument, aims to ensure that fishing effort is commensurate with available fisheries resources. To this end, the plan determines: (i) on the basis of the scientific evidence available, the state of fisheries resources in Albanian waters; (ii) the objectives to be achieved; (iii) fishing methods and gear to be used in relation to fishing areas and target species; (iv) the number of licenses to be issued in respect of fishing areas and/or species; (v) other restrictions to fishing (Article 10 of Fisheries Regulations No. 1 of 1997). It is prepared and reviewed periodically by the Directorate of Fisheries on the advice of the Central Consultative Commission for Fishery and Aquaculture<sup>24</sup> (Article 8 of Law No. 7908).

The Fishery and Aquaculture Development Plan is a financial instrument designed to allocate funds available in a manner consistent with the objectives set out in the Fishery and Aquaculture Administrative Plan.

##### **b) Co-management plans**

Law No. 8870 of 21 March 2002 amending the basic fisheries law provides for the establishment of fisheries co-management areas. On the written request of a fisheries management organization<sup>25</sup>, the Minister responsible for fisheries may designate any area within Albanian waters to be a fisheries co-management area. In such an area, one or more fisheries management organizations are involved in the devising of conservation and

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<sup>24</sup> The Central Commission for Fishery and Aquaculture consists of 22 members out of which 4 represent professional associations involved in professional fishing, aquaculture, fish processing and fish marketing.

<sup>25</sup> Law No. 8870 of 21 March 2002 introduces the concept of fisheries management organization. Fisheries management organizations are established pursuant to Article 26 of the Civil Code of the Republic of Albania to manage a fishing port or landing site or participate in the co-management of fisheries resources (article 31/1).



management measures, licensing and enforcement. Within twelve months of the designation of a co-management area, a fisheries co-management plan for the area must be prepared jointly by the Directorate of Fisheries and the relevant fisheries management organization(s). Such a plan must: (i) contain an analysis of the state of the fisheries; (ii) identify the short, medium and long term objectives; (iii) define strategies to achieve identified objectives; (iv) identify sources of funding for implementing and enforcing management measures; (v) contain performance indicators and formal review mechanism; and (vi) comply with any national fisheries management plan (Article 31/16).

#### **4.1.2 Commercial fishing<sup>26</sup>**

##### **a) Fishing effort and capacity**

Based on the decisions made in the framework of the Fishery and Aquaculture Administrative Plan, the Minister responsible for fisheries sets out annually the maximum number of licenses that can be issued for commercial fishing in Albanian waters. He/she may, under special circumstances, modify that number even if his/her decision conflicts with the provisions of the Fishery and Aquaculture Administrative Plan. In fisheries co-management areas, the number of fishing licenses to be issued therein is determined in the fisheries co-management plan (Article 15 of Law No. 7908 of 1995).

No fishing license can be issued to foreign vessels for the taking of demersal species by means of trawl nets or for the harvesting of bivalve molluscs (Article 20 of Law No. 7809 of 1995).

It can be inferred from Article 24.1a, prohibiting fishing in excess of set quantities of fish, that Total Allowable Catch (TAC) and/or individual quotas can be determined in fisheries management plans.

No license permitting the use of trawl nets can be granted to any vessel whose engine power is more than 600 Hp and less than 150 Hp (Article 52 of Fisheries Regulations No. 1 of 1997).

In order to ensure that they make effective use of their fishing rights, license holders are required to meet minimum annual production requirements set out in the regulations. These requirements are determined in relation to the engine power of the vessel in respect of which the license has been issued. They are as follows (Article 50.1 of fisheries Regulations No. 1 of 1997):

- 500 kV of fish for vessels over 500 Hp;
- 400 kV for vessels more than 300 Hp but less than 500 Hp;
- 300 kV for vessels more than 200 Hp but less than 300 Hp;
- 250 kV for vessels less than 200 Hp.

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<sup>26</sup> Referred to as professional fishing in Albania.

Failure to meet minimum production requirements will result in the license being modified (Article 50.2 of the Fisheries Regulations No. 1 of 1997).

#### b) Prohibited fishing zones

The Minister responsible for fisheries may designate areas in which any kind of fishing activities is strictly prohibited (Article 40.1 of Fisheries Regulations No. 1 of 1997).

Fishing is prohibited within a one-kilometre radius measured from the point where rivers empty into the sea and within a two-kilometre radius for the Buna River (Article 40.2 of Fisheries Regulations No. 1 of 1997).

Fishing is strictly prohibited in channels linking lagoons to the sea and within a two-kilometre radius measured from the point where the channel meets with the sea (Article 42.1 of Fisheries Regulations No. 1 of 1997).

#### c) Fishing gear

It is prohibited to use an attractive tart for fishing: (i) at depth less than 30 m; and (ii) in the Bay of Vlora (Article 41 of Fisheries Regulations No. 1 of 1997) and any attractive tart in the form of *gabiesh* and *dragash* (Article 53 of Fisheries Regulations No. 1 of 1997).

Minimum mesh sizes of nets are set out as follows:

- 40 mm for trawl nets (cod end);
- 16 mm for *koshilok* used to catch sardines, *acuga* and other small pelagic fish (cod end);
- 20 mm for *koshilok* used to catch sardines, *acuga* and other small pelagic fish (in other parts of the net); and
- 48 mm for surrounding trate used to catch *cironka* in coastal areas (Article 54 of Fisheries Regulations No. 1 of 1997).

#### d) Fishing methods

Use of explosives, chemicals, poisonous substances or electrical devices for fishing purposes is strictly prohibited (Article 24.1b of Law No. 7908 of 1997).

#### e) Juveniles

The taking of eggs, spawns, larvae, fingerlings or juveniles is prohibited without a special authorization to do so (Article 24.1a of Law No. 7908 of 1995).

#### f) Minimum size

It is strictly prohibited to fish and sell any aquatic species less than the minimum regulatory size as set out in Article 48.1 of Fisheries Regulations No.1 of 1997 (Table 2).

Table 2 summarizing minimum size of aquatic species<sup>27</sup>

Species (local or common names)	Species (scientific names)	Minimum size in cm or minimum weight in kg
<b>1. FISH</b>		
Merluc	<i>Merluccius merluccius</i>	20 cm
Merluci tripendesh	<i>Microsistius</i> spp., <i>Trisopterus</i> spp., <i>Gaidropsarus</i> spp.	20 cm
Seabass	<i>Dicentrarchus labrax</i>	25 cm
Mullet	<i>Mugil</i> spp., <i>Liza</i> spp., <i>Chelon</i> spp.	20 cm
Seabream	<i>Sparus aurata</i>	20 cm
Pagria	<i>Pagrus pagrus</i>	20 cm
Saragojte	<i>Diplodus</i> spp.	15 cm
Spalcat	<i>Pagellus</i> spp.	12 cm
Dentalet	<i>Dentex</i> spp.	25 cm
Vopa	<i>Boops boops</i>	10 cm
Salpa	<i>Sarpa salpa</i>	12 cm
Barbunet	<i>Mullus</i> spp.	11 cm
Kerrat	<i>Epinephelus</i> spp., <i>Polyprion</i> spp.	45 cm
Korbet	<i>Sciaena</i> spp., <i>Umbrina</i> spp.	25 cm
Stavridat	<i>Trachurus</i> spp.	12 cm
Gofat	<i>Seriola</i> spp.	30 cm
Ame	<i>Lichia amia</i>	30 cm
Skumret	<i>Scomber</i> spp.	20 cm
Pallamidi	<i>Sarda sarda</i>	30 cm
Sardines	<i>Sardina pilchardus</i>	10 cm
Acuga	<i>Engraulis encrasicolus</i>	10 cm
Sardinela	<i>Sardnella aurita</i>	12 cm
Shproti (papalina)	<i>Sprattus sprattus</i>	10 cm
Kublat	<i>Alosa fallax</i>	20 cm
Maridhat	<i>Spicara</i> spp.	8 cm
Ton	<i>Thunnus thynnus</i>	70 cm
Alalunga ton	<i>Thunnus alalunga</i>	40 cm
Tonili	<i>Euthynnus alletteratus</i>	30 cm
Peshku shpate	<i>Xiphias gladius</i>	100 cm
Peshku pellumb	<i>Mustelus</i> spp.	30 cm
Sharks	<i>Squalus</i> spp., <i>Scyliorhinus</i> spp., <i>Prionace</i> spp.	40 cm
Rajat	<i>Raja</i> spp.	30 cm
Skathinat	<i>Squatina</i> spp.	40 cm
Electric fish	<i>Torpedo</i> spp.	30cm
Ngjale deti	<i>Conger conger</i>	30 cm
Peshqit kitare	<i>Rhinobatos</i> spp.	30 cm
Gjuhezat	<i>Solea</i> spp.	20 cm
Shojza	<i>Platichthys flessus</i>	15 cm
Shkotrat	<i>Bothus</i> spp., <i>Arnoglossus</i> spp.	30 cm
Rombet	<i>Scophthalmus</i> spp., <i>Psetta</i> spp., <i>Lepidorhombus</i> spp.	30 cm
Jatagani	<i>Lepidopus caudatus</i>	40 cm
Shtiza	<i>Sphyraena</i> spp.	25 cm
Peshku kovac	<i>Zeus faber</i>	15 cm
Peshk gjel	<i>Trigla</i> spp., <i>Aspitriglia</i> spp.	15 cm
Lopa e detit	<i>Lophius piscarorius</i>	30 cm
Aterinat	<i>Atherina</i> spp.	8 cm
Ngjala	<i>Anguilla anguilla</i>	25 cm

<sup>27</sup> Some freshwater species may have been included in Table 2.

Trofta ylberi	<i>Onchorhynchus mykias</i>	25 cm
Trofta e eger	<i>Salmo trutta</i>	20 cm
Koran	<i>Salmo letnica</i>	25 cm
Belushka	<i>Salmothymus ohridanus</i>	15 cm
Gjuca (cironka)	<i>Alburnus</i> spp.	10 cm
Njila (skobuzi)	<i>Chondrostoma</i> spp.	15 cm
Skortet	<i>Rutilus</i> spp.	12 cm
Mustaket	<i>Barbus</i> spp.	25 cm
Mrenat	<i>Cobitis</i> spp.	25 cm
Mlyshet	<i>Leuciscius</i> spp.	15 cm
Bordullaket	<i>Gobius</i> spp.	15 cm
Karaset	<i>Carassius</i> spp.	15 cm
<b>2. CRUSTACEANS</b>		
Karkaleci I detit	<i>Panaeus kerathurus</i>	7 cm
Karkaleci violete	<i>Aristeus antennatus</i>	7 cm
Karkaleci I kuq	<i>Aristaemorpha foliacea</i>	6 cm
Karkaleci I bardhe	<i>Parapenaeus norvegicus</i>	10 cm
Skampi	<i>Nephrops norvegicus</i>	30 cm
Homaret (asticet)	<i>Homarus</i> spp.	30 cm
<b>3. CEPHALOPODS</b>		
Kallamaret	<i>Loligo</i> spp.	25 cm
Totanet	<i>Ilex</i> spp.	30 cm
Sepia	<i>Sepia officinalis</i>	20 cm
Octopus	<i>Octopus vulgaris</i>	0.5 kg
<b>4. MOLLUSKS<sup>28</sup></b>		
Midhja	<i>Mytilus galloprovincialis</i>	5 cm
Vongola	<i>Venus gallina</i>	2.3 cm
Tartufi I detit	<i>Venus verrucosa</i>	2.7 cm
Telini	<i>Donax trunculus</i>	2.2 cm
Vongola verace	<i>Ruditapes decussatus</i>	3.6 cm
Vongola filipine	<i>Ruditapes semidecussatus</i>	3 cm
Ostrea	<i>Ostrea</i> spp.	6 cm
Bicaku	<i>Solen</i> spp.	8 cm
Freskorja	<i>Pecten jacobus</i>	10 cm
Fasolari	<i>Challista chione</i>	6 cm

Incidental catch of undersized individuals of sardines, *acuga*, *papalina* and *cironka* can make up to 20% of total catch where such individuals are caught by means of purse seine nets, provided that they are not less than 7 cm (Article 48.2 of Fisheries Regulations No. 1 of 1997).

Incidental catch of undersized bivalve molluscs is tolerated insofar as it does not represent more 10% of the total catch (Article 2.3 of Fisheries Regulations of 2000).

<sup>28</sup> Minimum sizes for species of bivalve molluscs are set out in Article 2 of Fisheries Regulations of 2000.

#### g) Protected species

It is prohibited, at any time, throughout Albanian waters to take any individual of the following species: sturgeons (*Acipenser atirio*, *Acipenser nacarili*), *njila* (*Chondrostoma spp.*), sharks (*Cetorhinus maximus*, *Carharodon carcharias*), *lopa e detit* (*Mobula mobular*) and bivalve mussels (*Litophaga lithophaga*). Likewise, no person is allowed for whatever purposes to take any sea mammals, including dolphins, whales and seals, within Albanian waters (Article 45 of Fisheries Regulations No. 1 of 1997).

The taking of coral and sponges is prohibited at any time throughout Albanian waters, except for scientific research purposes (Article 22 of Law No. 7908 of 1995).

#### h) Fishing seasons

Closed seasons for V-shaped traps, also known as *lavoriero*, are set as follows (Article 43 of Fisheries Regulations No. 1 of 1995):

- from 15 March to 31 August in Shkodra
- from 15 March to 30 September in Viluni and Patogut
- from 10 March to 31 July in Merxhan and Ceka
- from 5 March to 5 May in Karavasta
- from 10 February to 10 April in Narta
- from 15 March to 15 June in Orikum
- from 1 April to 30 June in Butrint.

#### i) Bivalve molluscs

In 2000, the Minister responsible for fisheries adopted fisheries regulations governing the taking of bivalve molluscs.

In order to ensure the sustainable use of bivalve mollusc resources within Albanian waters, the Ministry responsible for fisheries imposed technical restrictions on the vessels to be used in this fishery. No vessel other than those complying with the following technical features can be granted a license for the harvesting of bivalve molluscs (Article 5.1 of Fisheries Regulations of 2000):

- length of vessel between perpendicular lines must not exceed 10 m;
- vessel's engine power must not be more than 100 Hp;
- vessel's GRT must not exceed 10 t;
- vessel's propeller must not be fitted with a mantle.

No "turbosofiante"-type fishing gear can be used for collecting bivalve molluscs (Article 5.2 of Fisheries Regulations of 2000).

Closed seasons for bivalve molluscs fishing are set as follows (Article 6 of Fisheries Regulations 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 to 30 April for *Donax trunculus*; and
- from 1 June to 31 July for *Venus verrucosa*.

Daily bag limits are imposed on both vessels and individuals (where the collecting of bivalve molluscs does not involve use of a vessel). They are set as follows (Article 7 of Fisheries Regulations of 2000):

(i) with respect to vessels:

- 600 kg for *Venus gallina* and *Kardium* (combined total);
- 500 kg for *Challista chione*;
- 100 kg for *Donax trunculus*;
- 300 kg for *koce polse*, *muscoli* and *kanestrel* (combined total); and
- 100 kg for *Ostrea spp.*

(ii) with respect to individuals:

- 5 kg for *Solen spp.*;
- 50 kg for *Challista chione*;
- 20 kg for *Pecten jacobaeus*;
- 50 kg for *Mytilus galloprovincialis*;
- 30 kg for *Ostrea spp.*;
- 10 kg for *Venus verrucosa*;
- 20 kg for *Donax trunculus*;
- 10 kg for *Venus gallina*;
- 10 kg for *Ruditapes semidecussatus*; and
- 5 kg for *Ruditapes decussatus*.

#### **4.1.3 Sport fishing**

Sport fishing activities within Albanian waters are strictly regulated. Conduct of such activities is subject to all restrictions applying to professional fishing with regard to, *inter alia*, minimum fish sizes and closed seasons. In addition, the following restrictions and prohibitions apply to sport fishing:

a) Fishing gear

As a general rule, it is prohibited in the conduct of sport fishing operations to use any nets and any other fishing gear commonly used for professional fishing. No gear other than hooks, *parangalle* and spear guns can be used for sport fishing. A fishing pole cannot be fitted with more than 5 hooks (Article 58 of Fisheries Regulations No. 1 of 1997). Use of spear guns is subject to an age limit (no individual less than 16 years old), to area restrictions (cannot be used within 50 m from professional gears and in marine protected areas) and to technical restrictions (cannot be used in conjunction with a self contained underwater breathing apparatus) (Article 23 of Law No. 7908 of 1995 as modified by Article 6 of Law No. 8870 of 2002).

## b) Daily bag limits

It is prohibited to fish more than 3 kg of fish per day, except in cases where the weight of a single individual exceeds that limit (Article 58.1d of Fisheries Regulations No. 1 of 1997).

## 4.2 Croatia

### 4.2.1 Commercial fishing

In 2000, Croatia adopted extensive measures regulating commercial fishing activities. Regulation on Commercial Fishing of 2000 (83/2000) has been changed several times (56/01, 69/01, 118/01, 101/02, 72/03, 89/03, 178/03 and 54/04).

These regulations deal with, *inter alia*, fishing methods and gear, technical features of vessels, fishing zones, closed seasons, quotas, and maximum number of licenses to be issued.

#### a) Fishing effort and fishing capacity

In order to ensure rational management and protection of commercially valuable species of fish and other marine organisms, the Minister responsible for marine fisheries is empowered:

- (i) to limit the number of commercial fishing licenses that can be issued for fishing within Croatian waters. Such restrictions may apply to a certain type of fishing activity in a particular area or zone (Article 49.4 of the Marine Fisheries Act of 1997);
- (ii) to establish TAC with respect to a specific area or zone and/or individual quotas per license (Article 49.3 of the Marine Fisheries Act of 1997);
- (iii) to restrict the number, size and power of fishing vessels authorized to operate within Croatian waters (Article 49.1 of the Marine Fisheries Act of 1997);
- (iv) to close specified areas or zones for commercial fishing; and
- (v) restrict the type and quantity of fishing gear and equipment that can be used in particular zones or areas (Article 49.1 of the Marine Fisheries Act of 1997).

A freeze on the issuance of any new fishing licenses authorizing the use of specified fishing gears<sup>29</sup> was imposed by the competent authority<sup>30</sup>.

#### b) Fishing gear

Numerous regulations have been adopted in Croatia to regulate fishing gears' technical characteristics and their use with regard to commercial, small-scale and sport fishing. An Ordinance of 1996 on commercial fishing (46/96)<sup>31</sup> prescribes, according to the type of license granted to a vessel, the quantities and types of gear that can be carried on board and used from that vessel. Mesh sizes of nets and other fishing gears as well as their area and time

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<sup>29</sup> These gears are the following: bottom trawl, small coastal trawl, dredge for Noah's arch, dredge for scallops, hydraulic dredge, coastal seine with traps, Norway lobster traps, pelagic longline, gillnet with frightening rope, seine net with frightening rope, axes for coral, scraper for shellfish, rakes for shellfish and pincers for shellfish.

<sup>30</sup> Information taken from the Report on Fishery Legislation Framework and List of the Main Management Measures made available to the author.

<sup>31</sup> Ordinance of 5 June 1996 regulating fishing gear in commercial fishing was amended twice in 1997.

of use have also been determined in Regulations on Commercial Fishing of 2000 (83/2000) and are summarized in Table 3 below.

Table 3. Quantity and mesh size of fishing gear that can be used for commercial fishing as well as time and area of use.

Type of fishing gear	Allowed quantities per license in pieces or length (cm)	Minimum Mesh size in mm or number of hooks	Time of use (open season)	Area of use
<b>TRAWL NETS</b>				
Bottom trawl net	1	Inner fishing sea: 24 mm (cod-end) and 48 mm (cover) Outer fishing zone: 20 mm (cod end) and 40 mm (cover)	Time restrictions apply in specified areas (Art. 8 to 14 of Reg. 83/2000)	TS* except in areas specified in Art. 6 of Reg. 83/2000
Pelagic trawl net	1	10 mm	All year	TS except in areas specified in Art. 21 of Reg. 83/2000
Coastal trawl net	1	12 - 16 mm (cod-end) and 24 - 32 mm (cover)	1/11 to 1/3	Few coastal areas
<b>DRIFT NETS AND SEINE NETS</b>				
Purse seine net for small pelagic fish	1	8 – 10 mm	All year	TS
Purse seine net for large pelagic fish	1	40 mm	All year except from 1/5 to 1/6	TS
Purse seine net for mullets ( <i>Mugilidae</i> )	1	26 – 32 mm	All year	TS
Purse seine net for garfish ( <i>Belone belone gracilis</i> )	1	10 – 12 mm	All year	TS
Purse seine net for sand smelts ( <i>Atherina boyeri</i> )	1	5 – 7 mm	1/11 to 1/4	TS
Drift net for sardines	1	8 – 10 mm	All year	TS
Drift net for picarels ( <i>Centracanthidae</i> )	1	12 – 14 mm	1/10 to 1/5	TS
Motion drift net for picarels ( <i>Centracanthidae</i> )	1	12 – 14 mm	1/10 to 1/5	TS
Drift net for garfish ( <i>Belone belone gracilis</i> )	1	10 – 12 mm	All year	TS
Drift net for amberjack ( <i>Seriola</i> )	1	28 – 32 mm	All year	TS



<i>dumerilii</i> )				
Drift net for sand smelts ( <i>Atherina boyeri</i> )	1	5 – 7 mm	1/7 to 30/4	Restricted areas
<b>GILLNETS</b>				
Gillnet for sand smelts ( <i>Atherina boyeri</i> )	200 m	6 – 8 mm	1/7 to 1/5	TS
Gillnet for smelts ( <i>Atherina hepsetus</i> )	500 m	10 – 12 mm	1/5 to 1/2	TS
Gillnet for picarels ( <i>Spicara smaris</i> )	1000 m	15 – 17 mm	1/10 to 1/5	TS
Gillnet for picarels ( <i>Spicara flexuosa</i> )	1000 m	18 – 26 mm	All year	TS
Gillnet for bogues ( <i>Boops boops</i> )	2000 m	22 – 30 mm	All year	TS
Gillnet for sardines	Unlimited	16 – 18 mm	All year	TS
Gillnet for coastal demersal fish	2000 m	32 – 50 mm	All year	TS
Gillnet for demersal fish		60 – 100 mm	All year	TS
Gillnet for bonito	1000 m	40 – 60 mm	All year	TS
Gillnet for lobsters ( <i>Palinurus elephas</i> , <i>Homarus gammarus</i> and <i>Scyllarides latus</i> )	1000 m	120 – 130 mm	1/5 to 1/9	TS
Gillnet for angle sharks	2000 m	130 – 148 mm	All year	TS
Gillnet for crabs ( <i>Maja squinado</i> )	2 500 m	150 – 180 mm	1/12 to 1/6	TS
Gillnet for turbot ( <i>Psetta maxima maxima</i> )		182 – 200 mm	All year	TS
Trammel net for salema	800 m	40 – 50 mm (middle layer) and 120 – 200 mm (outer layer)	1/11 to 1/6	TS
Trammel net for demersal fish	800 m	40 – 50 mm (middle layer) and 120 – 200 mm (outer layer)	1/9 to 1/6	TS
Trammel net for soles	3500 m	40 – 42 mm (middle layer) and 150 – 170 mm (outer layer)	1/9 to 1/6 (inner fishing sea) All year (outer fishing sea)	TS except within 1nm from coastline and island from 1/6 to 1/9
Trammel net for cuttle fish ( <i>Sepia officinalis</i> )	800 m	32 – 38 mm (middle layer) and 150 – 170 mm (outer layer)	1/9 to 1/6	TS
<b>TRAPS AND OTHER TOOLS</b>				
Lobster traps (( <i>Palinurus elephas</i> , <i>Homarus gammarus</i> , <i>Scyllarides latus</i> )	100	55 mm	1/5 to 1/9	TS

Traps for Norwegian lobsters ( <i>Nephrops norvegicus</i> ) and shrimps ( <i>Squilla mantis</i> )	250	20 mm	All year	TS
Large fyke nets for eels ( <i>Anguilla anguilla</i> )	1	12 mm	1/9 to 1/3	Restricted areas
Small fyke nets for eels ( <i>Anguilla anguilla</i> )	5	12 mm	1/9 to 1/3	Restricted areas
Fyke nets for smelts ( <i>Atherina hepsetus</i> ) and sand smelts ( <i>Atherina boyeri</i> )	1	5 – 12 mm	1/5 to 1/2	Restricted areas
Hand lines and trolling lines	10	7 mm	All year	TS
Floating lines	100	10 mm	All year	TS
Hand lines with hooks for cephalopods	200		All year	TS
Bottom longline	5000 (number of hooks)	10 mm	All year	TS
Pelagic longline	5000 (number of hooks)	30 mm	All year	TS
Tridents	5		All year	TS
Drift net and single gillnet with a frightening rope	1	32 mm	1/7 to 20/9	Restricted areas
Dredge for Noah's arch	1	40 mm	1/9 to 1/6	Restricted areas
Dredge for shellfish		40 mm	15/12 to 16/9	Restricted areas
Axes for coral	2		¼ to 1/12	TS
Scraper for shellfish	3			TS
Rakes for shellfish	3			TS
Pincers for shellfish	3			TS
Traps for sea worms	20			
Traps for sea spiders	20			

\*TS means throughout Croatian territorial sea.

Fishing by means of bottom trawl nets in the inner fishing sea can be undertaken only by using a vessel whose engine power does not exceed 184 kW (250 Hp). As of 1<sup>st</sup> January 2007, fishing by means of trawl nets in the inner fishing sea will be restricted to vessels whose engine power is less than 110 kW (150 Hp) (Article 10 of Regulations on Commercial Fishing of 2000 (83/2000)).

Furthermore, as of 1<sup>st</sup> January 2007, trawling in zones A, E, F and G is prohibited within 3 NM off the coastline unless 50m isobate has not been reached before that distance, noting that trawling is in any case prohibited within 1 NM off the coastline.

It is forbidden to use artificial lights when fishing by means of gillnets except for the purpose of luring sardines (Article 91 of Regulations on Commercial Fishing of 2000 (83/2000)). Use of any bait for the purpose of catching picarels by means of gillnet is prohibited throughout Croatian waters (Article 92 of Regulations on commercial fishing of 2000 (83/2000)).

c) Minimum size

The Order of 1998 (145/98) and amended by the Order 101/02 on the Protection of Fish and Other Marine Organisms was adopted to determine the minimum sizes of certain species of fish as shown in Table 4 below.

Table 4. Minimum sizes of certain species of fish, crustaceans, shellfish and sponges.

Species (local or common names)	Species (scientific names)	Minimum sizes in cm
<b>FISH</b>		
Arbun	<i>Pagellus erythrinus</i>	12 cm
Cipal bataš	<i>Mugil cephalus</i>	20 cm
Cipli	<i>Liza</i> sp., <i>Chelon</i> sp.	16 cm
Fratar, pic, šarag	<i>Diplodus</i> spp.	15 cm
Gof	<i>Seriola dumerili</i>	45 cm
Grdobina	<i>Lophius</i> spp.	30 cm
Iglan	<i>Tetrapturus belone</i>	120 cm
Iglun	<i>Xiphias gladius</i>	120 cm
Inćun	<i>Engraulis encrasicolus</i>	9 cm
Kantar	<i>Spondyliosoma cantharus</i>	18 cm
Kavala	<i>Sciaena umbra</i>	30 cm
Kirnja	<i>Epinephelus</i> spp.	45 cm
Komarča	<i>Sparus aurata</i>	20 cm
List	<i>Solea vulgaris</i>	20 cm
Lubin	<i>Dicentrarchus labrax</i>	23 cm
Oslić	<i>Merluccius merluccius</i>	16 cm
Pagar	<i>Pagrus pagrus</i>	30 cm
Palamida	<i>Sarda sarda</i>	45 cm
Papalina	<i>Sprattus phalericus</i>	8 cm
Skušā	<i>Scomber scombrus</i>	18 cm
Srdela	<i>Sardina pilchardus</i>	10 cm
Škrpina	<i>Scorpaena scrofa</i>	25 cm
Trlja	<i>Mullus</i> spp.	11 cm
Tunj	<i>Thunnus thynnus</i>	70 cm (6,4 kg)
Zubatac	<i>Dentex dentex</i>	30 cm
<b>CRUSTACEANS</b>		
Hlap	<i>Hommarus gammarus</i>	24 cm
Jastog	<i>Palinurus elaphas</i>	24 cm
Rakovica	<i>Maja squinado</i>	10 cm
Škamp	<i>Nephrops norvegicus</i>	7 cm
<b>SHELLFISH</b>		
Jakovljeva kapica	<i>Pecten jacobaeus</i>	10 cm
Kokoš, prnjavica	<i>Venus</i> spp.)	2,5 cm
Kučica	<i>Ruditapes decussatus</i>	2,5 cm
Kunjka	<i>Arca noae</i>	5 cm

d) Protected species

It is generally prohibited to catch any juvenile fish and other marine organisms within Croatia unless catching of such species has been authorized, for the purposes of rearing, restocking or

researching, by the Minister responsible for marine fisheries in a particular area of Croatian territorial waters, for a limited period of time and by a particular type of gear (article 48 of the Marine fisheries Act of 1997). Moreover the Regulation on criteria for establishing benefits for damage caused to fish and other marine organisms (101/02) by physical or legal persons is operating.

#### e) Protected areas

It is prohibited to fish within areas which have been declared “special habitats”. However, the Minister responsible for marine fisheries may, under certain conditions, authorize for a limited period of time some type of fishing activities within these areas (Article 52 of the Marine Fisheries Act of 1997).

### 4.2.2 Small-scale fishing

The new Regulation on fishing gear and equipment for subsistence fishing of 2002 (5/02) prescribes the quantities and types of gear that can be used per small-scale fishing license (Table 5) (before indicated by the Regulations of 1996 on small-scale fishing (89/96)<sup>32</sup>).

Table 5. Type and quantity of fishing gear that can be used for small-scale fishing.

Type of fishing gear	Allowed quantities per license in pieces or length
<b>GILLNETS and OTHER NETS</b>	
Gillnet for sand smelts	50 m
Gillnet for smelts	50 m
Gillnet for ground fish	100 m
<b>TRAPS</b>	
Fish traps	3
Traps for sea worm	2
<b>HOOKS and LINES and OTHER GEAR</b>	
Trident	2
Hand lines and trolling lines	2
Bottom longline	150 (number of hooks)

### 4.2.3 Recreational and sport fishing

#### a) Fishing gear

Regulations of 1997 on sport and recreational fishing prescribed the quantities and types of gear that can be used per license (Table 6). Now the recreational and sport fishing, quantities and types of gear that can be used are regulated by Regulation on sport and recreational fishing established in 2001 (118/01 with small changes - 4/02 and 3/03).

<sup>32</sup> Regulations of 15 October 1996 on fishing gear for small-scale fishing were amended in 1997 and 1998.

Table 6. Type and quantity of fishing gear that can be used for sport and recreational fishing.

Type of fishing gear	Allowed quantities per license in pieces
Hand lines	2
Trolling lines	2
Hand lines with hooks for cephalopods	2
Traps for sea worm	2
Spear guns for underwater fishing	2

No gear other than hand lines and trolling lines (no more than two pieces each) can be used for the catching of big games (e.g. bluefin tuna and swordfish).

Use of any self-contained underwater breathing apparatus for sport and recreational fishing purposes is prohibited.

#### b) Daily bag limit

Any person who engages in sport and recreational fishing is not allowed to catch more than 5 kg of fish and other marine organisms per day. The 5-kg daily bag limit does not apply to cartilaginous fish. In addition, any person who catches a single individual weighing more than 5 kg is authorized to keep it (Article 33 of the Marine Fisheries Act of 1997). The amount of fish that can be caught during sport and recreational fishing competitions is not restricted (Article 34 of the Marine Fisheries Act of 1997).

### 4.3 Serbia-Montenegro

#### 4.3.1 Commercial fishing

In 2000, Serbia-Montenegro adopted extensive measures regulating commercial fishing activities. These regulations deal with, *inter alia*, fishing methods and gear, vessels' technical features, fishing zones, closed seasons, quotas, and maximum number of licenses to be issued.

##### a) Fishing effort and fishing capacity

In order to ensure rational management and protection of commercially valuable species of fish and other marine organisms, the Minister responsible for marine fisheries is empowered as described hereunder.

For the purpose of preventing overfishing of all growth classes of marine organisms, the Ministry can:

- announce a closed season for a specific species of fish or other marine organism.
- determine the basic construction and/or technical characteristics, way of use, time and purpose of specific means and tools for commercial and sport-recreational fishing (Article 38 of the Law on Marine Fisheries of 2003).

For the purpose of the rational use and protection of commercially significant species of fish and other marine animals and on the basis of opinions previously obtained from the competent scientific institution, the Ministry lays down:

- 1) the number and size of vessels, horsepower of engines of the vessel, type and quantity of fishing tools and gear for which fishing is allowed in specific fishing areas;
- 2) restrictions, i.e., prohibition of fishing in a specific area;
- 3) the quantity that can be caught or collected per permit;
- 4) the number of permits issued for a specific form of fishing and the issuance of permits for use of locations for the needs of diving schools and carrying out sport-recreational activities at sea (Article 39 of the Law on Marine Fisheries of 2003)

#### b) Prohibited fishing zones

In order to ensure rational use and protection of commercially valuable species of fish and other marine organisms, the Minister responsible for marine fisheries may impose a restriction, i.e., prohibition of fishing in a specific area (Article 39 of the Law on Marine Fisheries of 2003).

Fishing in fishery reserves is prohibited (Article 45 of the Law on Marine Fisheries of 2003). Fishing in the area of a port, entrance or access channel and anchorage area is prohibited. (With the exception from the paragraph 1 of this Article, fishing in the area of a port, entrance or access channel and anchorage area is allowed only if the user of the port, with the approval of the port master's office and opinion of the competent scientific institution, permits fishing in these areas).

Fishing is permitted in the areas of channels and internal marine routes only if it does not hinder the navigation of other ships and vessels.

Fishing is not permitted in areas of arranged and marked swimming beaches in the period May 1 - October 1, from sunrise to sunset (Article 46 of the Law on Marine Fisheries of 2003).

#### c) Fishing methods

It is prohibited to catch fish or other marine organisms with explosives, chemical substances or other prohibited means that kill, intoxicate or poison them, as well as collecting and trading organisms caught in that way (Article 41 of the Law on Marine Fisheries of 2003).

In the area of the Bay of Boka Kotorska fishing with the following means is prohibited:

- 1) bottom trawls;
- 2) floating trawls;
- 3) encircling large-scale fishing nets (Article 46 of the Law on Marine Fisheries of 2003)

For the purpose of protecting general marine biodiversity, fishing with bottom trawls and floating trawls in shallower zones of the littoral is prohibited only at the distance of three nautical miles, following the configuration of the shore, i.e., at the depth of 50 meters if the isobath of 50 meters where that depth is reached is at a distance shorter than three nautical miles (Article 48 of the Law on Marine Fisheries of 2003).

d) Juveniles

It is prohibited to catch and trade fish juveniles (Decree on prohibition of capture and trade in fish juveniles, undersized fish and other marine organisms no. 10/2004)

e) Minimum size

The minimum size is laid down (Table 7) as follows: (2. Decree on prohibition of capture and trade in fish juveniles, undersized fish and other marine organisms no. 10/2004).

Table 7. Minimum size of fish, crustaceans, shellfish and sponge species.

Scientific name	Minimum size
<b>FISH</b>	
<i>Pagellus erythrinus</i>	15 cm
<i>Pagellus acarne</i>	15 cm
<i>Uranoscopus scaber</i>	16 cm
<i>Boops Boops</i>	15 cm
<i>Liza ramada</i>	30 cm
<i>Mugil cephalus</i>	40 cm
<i>Liza saliens</i>	28 cm
<i>Chelon labrosus</i>	35 cm
<i>Liza aurata</i>	28 cm
<i>Chromis chromis</i>	8 cm
<i>Diplodus vulgaris</i>	15 cm
<i>Atherina hepsetus</i>	8 cm
<i>Atherina boyeri</i>	6 cm
<i>Spicara smaris</i>	12 cm
<i>Spicara flexuosa</i>	12 cm
<i>Gobius cobitis</i>	13 cm
<i>Zosterisessor ophiocephalus</i>	11 cm
<i>Seriola dumerili</i>	80 cm
<i>Lophius piscatorius</i>	30 cm
<i>Lophius budegassa</i>	30 cm
<i>Tetrapturus belone</i>	120 cm
<i>Engraulis encrasicolus</i>	11 cm
<i>Platichthys flessus luscus</i>	25 cm
<i>Anguilla anguilla</i>	30 cm
<i>Spondyliosoma cantharus</i>	25 cm
<i>Serranus cabrilla</i>	16 cm
<i>Sciaena umbra</i>	30 cm
<i>Epinephelus marginatus</i>	60 cm
<i>Trigloporus lastoviza</i>	24 cm
<i>Sparus aurata</i>	20 cm
<i>Zeus faber</i>	25 cm
<i>Solea vulgaris</i>	25 cm
<i>Scomber japonicus</i>	25 cm
<i>Dicentrarchus labrax</i>	25 cm
<i>Spicara maena</i>	14 cm
<i>Merluccius merluccius</i>	20 cm
<i>Lithognathus mormyrus</i>	18 cm
<i>Pagrus pagrus</i>	36 cm

<i>Sarda sarda</i>	45 cm
<i>Mustelus mustelus</i>	75 cm
<i>Sljualus acanthias</i>	65 cm
<i>Mustelus punctulatus</i>	60 cm
<i>Diplodus puntazzo</i>	22 cm
<i>Merlangius merlangius euxinus</i>	12 cm
<i>Serranus scriba</i>	15 cm
<i>Raja clavata</i>	73 cm
<i>Raja miraletus</i>	37 cm
<i>Xiphias gladius</i>	120 cm
<i>Salpa salpa</i>	25 cm
<i>Scomber scombrus</i>	20 cm
<i>Labrus bimaculatus</i>	18 cm
<i>Sardina pilchardus sardina</i>	12 cm
<i>Diplodus sargus sargus</i>	21 cm
<i>Scorpaena scrofa</i>	25 cm
<i>Scorpaena porcus</i>	14 cm
<i>Trachurus trachurus</i>	20 cm
<i>Trachurus mediterraneus</i>	20 cm
<i>Diplodus annularis</i>	10 cm
<i>Mullus surmeletus</i>	11 cm
<i>Mullus barbatus</i>	11 cm
<i>Auxis rochei</i>	32 cm
<i>Thunnus thynnus</i>	70cm/6.4 kg
<i>Conger conger</i>	40 cm
<i>Oblada melanura</i>	17 cm
<i>Labrus merula</i>	22 cm
<i>Dentex dentex</i>	30 cm
<b>CRUSTACEA</b>	
<i>Homarus gammarus</i>	28 cm
<i>Palinurus elaphas</i>	28 cm
<i>Maja sljuinado</i>	10 cm
<i>Nephrops norvegicus</i>	10 cm
<i>Penaeus kerathurus</i>	10 cm
<i>Parapenaeus lingirostris</i>	9 cm
<b>CEPHALOPODA</b>	
<i>Sepia officinalis</i>	12 cm
<i>Octopus vulgaris</i>	1 kg
<i>Eledone moschata</i>	0.2 kg
<i>For shellfish (Bivalvia)</i>	
<i>Mytilus galloprovincialis</i>	5 cm
<i>Pecten jacobaeus</i>	9 cm
<i>Ostrea edulis</i>	6 cm
<i>Venus gallina</i>	2.5 cm
<i>Ruditapes decussatus</i>	2.5 cm
<i>Arca noae</i>	5 cm
<i>Venus verrucosa</i>	3 cm
<b>OTHER SHELLFISH</b>	<b>2 cm</b>
<b>SPONGES (SPONGIA)</b>	
<i>Spongia officinalis adriatica</i>	10 cm
<b>SEA CUCUMBER</b>	
<i>Holothuria spp.</i>	14 cm



#### f) Protected species

It is prohibited to catch and trade fish juveniles, undersized fish and other undersized marine organisms (1. Decree on prohibition of capture and trade in fish juveniles, undersized fish and other marine organisms no. 10/2004).

It is prohibited to catch, marine mammals (whales, dolphins, seals, etc.) sea birds and sea turtles, should these be accidentally caught they must be returned to the sea (6. Decree on prohibition of capture and trade in fish juveniles, undersized fish and other marine organisms no. 10/2004).

In order to protect rocky shores as a special habitat in the fishery sea, in the whole territory of Serbia-Montenegro the catching, trading or exporting of the date-shell (*Litophaga litophaga*) is prohibited (Article 49 of the Law on Marine Fisheries of 2003).

#### g) Protected areas

Fishing in fishery reserves is prohibited. However the Ministry responsible for marine fisheries can permit fishing to companies and entrepreneurs at specific times and with specific fishing means, such as for the purpose of reproduction, cultivation and stocking of new fishing areas or due to the arrival of larger quantities of a certain species of fish and marine organism (Article 45 of the Law on Marine Fisheries of 2003).

### 4.3.2 Recreational and sport fishing

#### a) Fishing gear

The Rulebook on method, type and quantity of fishing tools and gear that can be used in sport-recreational fishing, forms, number and contents for the sport fishing permits of 2004, on the basis of the Article 26 of the Law on Marine Fisheries prescribes the types of gear that can be used per fishing licence.

Sport fishing can only be done with the following means: fishing lines, one rod for angle throwing, underwater gun without explosive charge, harpoons, longlines of up to 150 angles and tridents with a torch of up to 400 candelas (or without one), one fish trap, with use of rowing boats, sailing boats or motor boats.

Collecting of fish, sponges and corals can be done only with manual tools such as: rakes, pincers and divers' knives.

When fishing with fishing lines, angles of curve width not less than 7 mm can be used, whereas if fishing with floating fishing lines, the curve width must not be less than 9 mm.

#### b) Daily bag limit

A natural person engaged in sport-recreational fishing can catch a maximum of 5 kg of fish and other marine organisms in one day except during sport fishing competitions. Catching of marine game (shark, catfish, ray etc.) and an individual fish that weighs more than 5 kg (sea-

bass, dentex, sea-bream etc.) is not included in the quantity of fish stated in paragraph 2 of Article 21.

#### **4.4 Italy and Slovenia as European Union member states**

Council Reg. 1626/1994/EEC represents the fundamental ‘corpus’ of the conservation and management measures for the Mediterranean Sea. It will be reviewed according to the new CFP (Common Fisheries Policy) that recognizes the particular nature of the Mediterranean Sea and considers it necessary to introduce a new fishery management system as soon as possible, based on opportune measures that differ from those concerning northern European seas.

The European Community aims to revise and replace the measures laid down in Council Reg. 1626/1994/EEC while maintaining some of its elements that have been accepted, during the implementation period, by the Mediterranean fisheries stakeholders and public opinion.

The proposal, in particular aims to:

- introduce new technical measures to improve the selectivity of the current 40 mm mesh size for towed nets, without immediately increasing the mesh size,
- and it also puts forward a two-stage approach towards increasing the minimum mesh size to 60 mm over the next six years;
  - strengthen the current ban on the use of towed gears in coastal areas;
  - limit the overall sizes of certain fishing gears that effect fishing effort;
  - introduce a procedure for establishing temporary or permanent closures of areas to specific fishing methods, either in Community or international waters;
  - provide for the adoption of management plans in the Mediterranean area combining the use of effort management with technical measures;
  - introduce provisions to ensure that leisure fishing is conducted in a way that reduces interference with professional fishing and does not jeopardize the sustainability of certain resources;
  - delegate powers to Member States to regulate fishing activities in their territorial waters and under certain conditions, that do not have any significant Community dimension or environmental impact, including certain local fisheries currently authorised under Community law;

The proposal on mesh size for towed nets and other changes in technical measures have been questioned by Member States. At the moment the shared aim to modify Council Regulation 1626/1994 has been delayed. So this chapter on conservation and management measures in EU Member States refers to self-executing dispositions of Reg. No. 1626/1994.

Before analysing Reg. No. 1626/1994, it is opportune to synthesize the EU internal distribution of competences in fishery management:

Reg. 2371/2002/EC confirms the Council’s competence to establish Community measures governing access to waters and resources, and the sustainable pursuit of fishing activities. To accomplish this the Council takes into account available scientific, technical and economic advice and in particular the reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).

The Council's management measures may, in particular, include measures for each stock or group of stocks to limit fishing mortality and the environmental impact of fishing activities by:

- (a) recovery plans (Art. 5 – Reg. EC 2371/2002) for fisheries exploiting stocks which are outside safe biological limits; plans shall be multi-annual and indicate the expected time frame for reaching the targets established;
- (b) management plans (Art. 6 – Reg. EC 2371/2002) as far as necessary to maintain stocks within safe biological limits for fisheries exploiting stocks at/or within safe biological limits;
- (c) targets for the sustainable exploitation of stocks;
- (d) limits on catches and fishing effort.

Reg. 2371/2002/EC permits to European Commission and Member States to adopt the following types of measures:

#### *European Commission emergency measures*

If there is evidence of a serious threat to the conservation of living aquatic resources, or to the marine eco-system resulting from fishing activities and requiring immediate action, the Commission, at the substantiated request of a Member State or on its own initiative, may decide on emergency measures which shall last not more than six months. The Commission may take a new decision to extend the emergency measures for no more than six months.

#### *Member State emergency measures*

If there is evidence of a serious and unforeseen threat to the conservation of living aquatic resources, or to the marine ecosystem resulting from fishing activities, in waters falling under the sovereignty or jurisdiction of a Member State where any undue delay would result in damage that would be difficult to repair, that Member State may take emergency measures, the duration of which shall not exceed three months. Member States intending to take emergency measures shall notify their intention to the Commission, the other Member States and the Regional Advisory Councils concerned by sending a draft of those measures, together with an explanatory memorandum, before adopting them.

#### *Member State measures within the 12 nautical mile zone*

A Member State may take non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the Community has not adopted measures addressing the conservation and management specifically for this area. The Member State measures shall be compatible with the objectives set out in Article 2 of Reg. 2371/2002 and no less stringent than existing Community legislation.

Where measures to be adopted by a Member State are liable to affect the vessels of another Member State, such measures shall be adopted only after the Commission, the Member State and the Regional Advisory Councils concerned have been consulted on a draft of the measures accompanied by an explanatory memorandum.

The summarized principles are necessary for a correct interpretation of following considerations about Italian and Slovenian cases.

#### **4.4.1 Italy**

EU Council regulations are self-executing for all European Member States. That means Council Reg. EC No. 1626/94 and Reg. EC No. 2371/02 have direct application in Italy and Slovenia. These two Member States can only introduce more restrictive norms in order to improve marine resource protection and without impacting on other community fishery fleets.

##### ***4.4.1.1 Planning instruments***

The Italian Government recently reformed the old fishery management system based on Law 41/1982 and Law 963/1965. To achieve this, in 2003, the Italian Parliament delegated the Italian Government to modify and/or repeal exiting fishery laws and, in May 2004, two important legislative decrees were adopted: Legislative Decree No. 153/2004 and Legislative Decree No. 154/2004.

In these two legislative texts, Italy repeals many old dispositions that became ineffective compared to the progressive and detailed EU Council regulations. One of the aims was to remove those dispositions from Italian law that successive EC regulations had made useless or inadequate.

Thus the correct way to approach Italian and Slovenian fisheries regimes is to evaluate each nation's translation or implementation of the Common Fishery Policy and its regulations.

In 1982, Italy adopted its first three-year fisheries and aquaculture Plan as prepared by the National Committee for the Conservation and Management of Living Marine Resources. This and successive plans cannot be adopted without having first been approved by the Interministerial Committee for Economic Planning, which assesses its economic and financial feasibility. The Sixth three-year fisheries and aquaculture Plan, covering the period from 2000 to 2002, was prolonged to 2004 in order to allow the Italian Government to implement the reforms described above.

The next three-year fisheries and aquaculture Plan shall be the First National Program under Legislative Decree 154/2004. According to self-executing EC regulations this means that responsibility for the implementation of the Common Fishery Policy and the sustainable development of fisheries has been assumed by the nation concerned, in this case Italy.

##### ***4.4.1.2 Commercial fishing***

###### **a) Fishing effort and fishing capacity**

In 1989, the Italian Government imposed a freeze on the number of fishing licenses that could be granted for fishing in Italian waters. The freeze is still in effect because Article 13 of EC Reg. No. 2371/2002 establishes the following 'Entry/Exit scheme and overall capacity reduction':

Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:

- a) the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity,
- b) the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
  - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
  - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT.

As introduced in paragraph 2.4.4 of this document, Italian Legislative Decree 153/2004 confirms the EC rule that in order to fish commercially it is necessary first to have been granted a licence; furthermore Legislative Decree 154/2004 specifies that the possession of a vessels is not a sufficient criterion to grant the license, the conditions mentioned under Article 13 of Reg. 2371/2002 must be satisfied.

It is necessary to underline that the application of Legislative Decree 153/2004 and Legislative Decree 154/2004 requires the modification of Presidential Decree No. 1639 of 2 October 1968. This Decree was considered the most important ‘old corpus’ of technical rules for the Italian fishery system; before June 2005 the Italian Government should amend the Decree accordingly, thus reforming national legislation. EC Reg 1626/1994 assures that no legislative gap occurs while the Italian law is being amended.

#### b) Temporary suspension of bottom and mid-water trawl nets

Fishing by means of bottom and mid-water trawl nets has for a long time been subject to annual, temporary suspensions so as to allow fish stocks to recover. In the Adriatic Sea, bottom and mid-water trawlers cannot operate on Fridays, Saturdays, Sundays and during holidays all year round. In addition, during summer time, bottom and mid water trawl nets suspend fishery for a minimum of 30 days to a maximum of 45 days. This type of suspension is applied under Article 12, par. 6, Reg. EC 2792/1999 as modified by Reg. EC 2369/2002.

#### c) Drifting gillnet fishing stop

In 1998, the Italian Government adopted the Plan for the rationalization of drifting gillnet fishing, co-financed by the EU and designed to encourage voluntary retraining and rational use of drifting gillnets (Ministerial Decree of 23<sup>rd</sup> May 1998). To achieve this the Plan offers fishermen the chance either to retrain for other activities within or outside the fishery industry or to withdraw from fishing in exchange for a retirement allowance. The Plan was successful as use of the drifting gillnet by Italian vessels had decreased by an estimated 85% in October 2001.

On 1<sup>st</sup> January 2003 EC Reg. 1239/98 fixed the final terms for drifting gillnet fishery, the Italian Government therefore adopted the last obligatory Plan. With this final plan drifting gillnet fishery became totally forbidden to the Italian fleet.

#### d) Dredges and bivalve molluscs

In order to ensure the sustainable exploitation of bivalve molluscs, the Italian Government froze the number of dredges in each maritime district and, in 1995, decided to transfer the management to 'Consorti di gestione' (management consortia) that operate in accordance with the relevant provisions of Ministerial Decree No. 44/1995 of 1995 and Ministerial Decree No. 515/1998 of 1998.

Management consortia must directly assure that the general Italian rules on bivalve molluscs are respected, as established by Ministerial Decree of 21 July 1998 (external license holders must also respect these rules). Consortia are required to provide the local Coast Guard Authority with catch data no later than the fifth day of each month.

The gathering of *vongole*, *fasolari*, *cuori*, *longoni* is suspended for a two-month period every year. The start of the closed season is determined by the Local Fisheries Commissions (Article 6). Closed seasons for other species of bivalve molluscs are as follows:

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

The gathering of bivalve molluscs is subject to daily bag limits (Article 7):

- 100 kg for *vongole veraci*;
- 300 kg for *cannolicchi*;
- 100 kg for *tartufi* and *noci*;
- 350 kg for *fasolari*;
- 100 kg for *telline*;
- 300 kg for *cozze pelose*, *mussoli* and *canestrelli*.

It is prohibited to gather any species of clam or mussel which is less than 1,5 cm and 2,5 cm in length respectively. Accidental catches of undersized individuals is tolerated when it is less than 10% of the total catch (Article 3.2). Management consortia reduced the impact of these accidental catches establishing their destination to nursery zones.

On the basis of the general measures fixed by the Italian Government and mentioned herein, some management consortia added further, more restrictive measures concerning seasonal conditions.

In order to ensure the sustainable exploitation of bivalve molluscs within fishing areas (*compartimentale*), management consortia were authorized to devise technical measures, propose increase or decrease the number of fishing permits that could be issued for the gathering of bivalve molluscs and establish fisheries reserves.

In view of the positive results of this experience in the Adriatic Sea, the Italian Government decided to extend this management system to areas of the Tyrrhenian.

#### e) Protection of juveniles and minimum size

The self-executing rules of Reg. EC 1626/94 establish the minimum size to protect juveniles as follows (Table 8):

Table 8. Minimum size – annex IV to Reg. EC 1626/1994<sup>33</sup>

Species	Minimum size	
<b>FISH</b>		
<i>Dicentrarchus labrax</i>	23 cm	
<i>Diplodus</i> spp.	15 cm	
<i>Engraulis encrasicolus</i> [*]	9 cm	
<i>Epinephelus</i> spp.	45 cm	
<i>Lophius</i> spp.	30 cm	
<i>Merluccius merluccius</i>	20 cm	
<i>Mugil</i> spp.	16 cm	
<i>Mullus</i> spp.	11 cm	
<i>Pagellus</i> spp.	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 o 6,4 kg [**] <sup>34</sup>	
<i>Trachurus</i> spp.	12 cm	
[ <i>Xiphias gladius</i> [***]]	120 cm <sup>35</sup>	
<b>CRUSTACEANS</b>		
<i>Homarus gammarus</i>	85 mm	Carapace length
	240 mm	Total length
<i>Nephrops norvegicus</i>	20 mm	Carapace length
	70 mm	Total length
<i>Palinuridae</i>	240 mm	Total length
<b>MOLLUSCS</b>		
<i>Pecten</i> spp.	100 mm	
<i>Venerupis</i> spp.	25 mm	
<i>Venus</i> spp.	25 mm	

[\*] Member States may convert minimum size into the number of individuals of this species per kilogramme.

[\*\*] However, the provision of Article 8 paragraph 3 is not applicable to fish that weigh between 3.2 and 6.4 kg that are captured accidentally, for up to 15% calculated in units.<sup>36</sup>

[\*\*\*] Length is measured along a straight line drawn from the tip of the lower jaw to the posterior extremity of the shortest caudal ray)<sup>37</sup>

<sup>33</sup> A partial repeal of this regulation is detailed in article 3 of EC Reg. n. 49/1999.

<sup>34</sup> This entry was initially substituted by article one of EC Reg. n° 782/98, following which it was substituted by article one of EC Reg. n° 812/2000 and finally repealed by article 20 of EC Reg. N° 973/2001, which should be referred to for further clarification.

<sup>35</sup> This entry is repealed in part by article 20 of EC Reg. n° 973/2001, which should be referred to for further clarification.

<sup>36</sup> This note is substituted by article 1 of EC Reg. n° 812/2000.

<sup>37</sup> This note is renumbered in article 1 of EC Reg. n° 782/98.

Before the application of Reg. EEC 1626/1994, about 900 Italian vessels had the authorization to fish juveniles. In accepting the common limitations, Mediterranean EU Member States asked and obtained a transactional regime from the European Community. During recent years, the Italian Government assured a significant reduction of authorized vessels, limited to one target-species and reduced the fishing period to 60 days.

Given these conditions, currently 420 vessels (less than 10 gross tonnes, GT, and whose engine power does not exceed 100 Hp) continue to fish juveniles of 'bianchetto' (juveniles of anchovy). It should be noted that the Italian fleet amounts to about 15.000 vessels. 'Bianchetto' fishing determines the associated capture of 'rossetto' (*Aphia Minuta*) that is an adult fish species.

Limited quotas of juveniles of clams and other listed species can only be gathered for aquaculture or stocking purposes. This activity is also strictly regulated with an relevant control system on listed authorized fisherman.

'Bianchetto' is the only juvenile species that can be commercialized, however only during the limited 60-day period fixed every year by the Italian Government. Other juveniles cannot be landed and their commerce is punished with suspension of the commercial activity license (market, restaurant etc.) for a minimum of 5 days to a maximum of 10 days. This is established in Article 6 of Legislative Decree 153/2004.

#### f) Sea urchins

The gathering of sea urchins is governed by a Ministerial Decree of 12 January 1995. No tool other than rakes and *asta e specchio* can be used for the commercial fishing of sea urchins. Sea urchins can also be gathered manually by professional divers using underwater breathing apparatus and by non-professional divers diving in apnea (Article 1). Daily bag limits are 1,000 individuals for professional fishers and 50 individuals for non-professional fishers (Article 2). It is prohibited to gather sea urchins less than 7 cm in diameter (Article 3). Sea urchin fishing is suspended during the months of May and June every year (Article 4).

#### g) Bluefin tuna

The ICCAT plenary session decides EU Bluefin tuna annual TAC (total admissible of catches). EU shares its TAC in 'nationals quotas' that Member States manage. After the first Ministerial Decree of 27 July 2000 established to fix general allocation criteria, every year the Italian Government examines listed vessels to check that they are respecting the EU regulations adopted to implement ICCAT recommendations. A portion of the Italian 'quota' is allotted to those registered vessels that receive a positive appraisal. To maintain their 'individual quota', each single listed vessel must:

- hold a specific fishing license authorizing the use of seine nets or longlines just for tuna;
- provide the competent authority with catch data in the format prescribed by the EU in accordance with ICCAT prerequisites;
- respect the annual 'individual quota'.



The first list of vessels approved for bluefin tuna fishery was published by the Italian Government in 2001 (Ministerial Decree of 24<sup>th</sup> April 2001). The effect of this measure is to exclude all Italian vessels other than those mentioned in the list from bluefin tuna fishery.

Council Reg. 812/2000/EC amends the minimum landing sizes of bluefin tuna, set out in the two Regulations concerning the Mediterranean Sea and in regions 1 to 5 of the Atlantic and Indian Oceans in order to prohibit any landing of bluefin tuna below 3.2kg.

Reg. 869/04 establishes that Member States shall introduce an apposite register for tuna farming.

#### h) Small pelagics

A Ministerial Decree of 1<sup>st</sup> April 1998 regulates the capture of small pelagics by means of surrounding nets and pelagic trawl nets in the Adriatic Sea. It provides for the suspension of such types of fishing for a 24-hour period every week and for the suspension of fishing by means of surrounding nets for a period of four consecutive days every month, starting on the day of the full moon.

This is the general rule, but it should be noted that Italian small pelagic fishery in the Adriatic Sea is organized in accordance with Reg. EC No. 104/00 of 17 December 1999. This means that the fishermen plan their activity according to common rules. The producers' organizations in the fishing industry control production with attention to responsible fishing practises and to traceability regulations in the market. This type of organization is being co-financed in its initial stages because the European Community considers it an important way to unite the objective of sustainable exploitation with economic goals.

#### i) *Lithophaga lithophaga* and *Pholas dactylus*

Reg. EC No. 1626/1994 prohibits the use of a pneumatic hammer or any similar tools for the harvesting of *Lithophaga lithophaga* and *Pholas dactylus*. The Italian Decree of 16<sup>th</sup> October 1998 introduced a more restrictive normative declaring the harvesting of these two species totally illegal, it also prohibits, the commerce and possession of these species until September 2007.

#### j) Coral

The use of St Andrew's crosses and similar towed gear for harvesting coral is prohibited (Article 2.2 of Council Regulation (EC) No. 1626/94 of 27 June 1994).

#### **4.4.1.3 Sport or recreational fishery and underwater fishing**

To date the EU Council has not introduced regulations on this matter. There are some guidelines and general advice to control sustainability and to collect data, above all for species managed by international commissions such as ICCAT.

Italian recreational or sports fishery is regulated and it should be noted that sport fisherman can use 'LENZE' and no other commercial fishing systems listed in the Ministerial Decree of 26<sup>th</sup> July 1996. The activities are subject to a 5 kg daily bag limit. The harvest of mussels for recreational purposes is subject to a 3 kg daily bag limit (Ministerial Decree of 10<sup>th</sup> April 1997).

Underwater professional fishery needs an authorization granted by the local Coast Guard Authority and the activity is subject to some restrictions to ensure security and safety (fisherman must be over 18 but less than 40 years old and must satisfy certain criteria in terms of their physical condition and qualifications).

As a consequence of the legislative reform, Legislative Decree 153/2004 requires the Italian Government to amend Presidential Decree No. 1639 of 2 October 1968 as regards sports, recreational and underwater fishing.

#### ***4.4.1.4 Protected species***

The capture of cetaceans, turtles and sturgeons is prohibited. Italy complies with the IWC (International Whaling Commission), which is the competent body for the conservation of cetaceans.

#### ***4.4.1.5 Fishing zones***

Italian fishing vessels are divided into four categories corresponding to their area of operation:

- coastal fishing vessels;
- offshore ('ravvicinata') fishing vessels;
- Mediterranean fishing vessels;
- High seas fishing vessels.

Coastal fishing vessels are those operating within the 3 to 6 nautical mile water band measured from the coastline. The competent authority may authorize such vessels to operate up to the 12-mile limit, provided that they comply with applicable safety standards. However, they can only operate within the waters of the maritime district in which they are registered as well as in the waters of the two neighbouring maritime districts<sup>38</sup>.

Offshore fishing vessels are authorized to operate in an area extending from 3 to 20 nautical miles measured from the coastline. These vessels may be authorized to fish up to the 40-mile limit provided that they comply with safety standards established by Law No. 655/94 of 1994. They can operate within all the Italian maritime districts.

Mediterranean fishing vessels are authorized to operate throughout Italian territorial waters as well as in the high seas areas of the Mediterranean, unless a bilateral or multilateral agreement to which Italy is a party dictates otherwise.

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<sup>38</sup> Italian territorial waters are divided into 48 maritime districts for administrative purposes.

High seas fishing vessels are authorized to fish throughout Italian territorial waters as well as in areas of high seas both in the Mediterranean and elsewhere.

#### **4.4.1.6 Protected areas**

Under Italian jurisdiction there are 22 Marine Protected Areas. It means that Italian Government has limited human activities (transport, fishery, tourism etc.) in 184.000 hectares of territorial marine waters. In addition, 11 Biological Conservation Zones ('Zone di tutela biologica') have been created to experiment models of sustainable self-management.

##### a) Restrictions on the use of fishing gear

The use of encircling and towed nets from a boat or operated from the shore is prohibited (Article 2.3 of Council Regulation (EC) No. 1626/94 of 27 June 1994).

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 (Article 3.1 of Council Regulation (EC) No. 1626/94 of 27<sup>th</sup> June 1994). However, the use of dredges for catching shellfish may be authorized irrespective of the distance from the coast and depth, provided that the catch of species other than shellfish does not exceed 10% of the total weight of the whole catch (Article 3.2 of Council Regulation (EC) No. 1626/94 of 27 June 1994).

Fishing by means of bottom trawls, seines or similar nets above Posidonian beds (*Posidonia oceanica*) or other marine phanerogams is strictly prohibited (Article 3.3 of Council Regulation (EC) No. 1626/94 of 27<sup>th</sup> June 1994).

It is prohibited 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 of Council Regulation (EC) No. 1626/94 of 27<sup>th</sup> June 1994).

##### b) Gear restrictions<sup>39</sup>

Minimum mesh sizes are:

- 40 mm for towed nets (bottom trawls, surface trawls<sup>40</sup>, anchored seines, etc.) and
- 14 mm for encircling nets.

##### c) Trawls

The use of any device to cover the cod end, on the inside or the outside, is restricted to the devices authorized by Commission Regulation (EEC) No. 3440/84 of 1984.

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<sup>39</sup> Annex II and III of Council Regulation (EC) No. 1626/94 of 27 June 1994).

<sup>40</sup> 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.

#### d) Dredges

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

#### e) Encircling nets (seines and lampara nets)

The length of netting must not exceed 800 m and the drop is restricted to 120 m, except in the case of tuna seines.

#### f) Bottom seine nets (gillnets and entangling nets) and trammel nets

The maximum drop of bottom-set nets is restricted to 4 m. It is prohibited to carry on board and set more than 5000 m of bottom-set nets per vessel.

#### g) Bottom-set longline

It is prohibited carry on board and set more than 7000 m of longline per vessel.

#### h) Surface-set longline (floating)

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

### **4.4.2 Slovenia**

EU Council regulations are self-executing for all European Member States. That means Council Reg. EC No. 1626/94 and Reg. EC No. 2371/02 have direct application in Italy and Slovenia. These two Member States can only introduce more restrictive norms in order to improve marine resources protection without impacting on other community fishery fleets (Cfr. par. 4.2 for details on minimum size of species and other relevant dispositions of EU Council regulations).

#### ***4.4.2.1 Planning instruments***

The Government of the Republic of Slovenia has the legal obligation to devise and adopt a fishing development program covering a six-year period. Such program must include the following particulars:

- the state of the fishery resources;
- the strategy to achieve optimum exploitation of fishery resources throughout Slovenian waters;
- the goals to be achieved;
- the structural and other measures for the realization of these goals; and
- a financial plan for the implementation of the fishing development program (Article 5 of the Marine Fisheries Act of 2002).

#### **4.4.2.2 Commercial fishing**

##### **a) Fishing effort**

In order to ensure the sustainable exploitation of the fishery resources within Slovenian waters, the number of commercial fishing permits must be commensurate to fishing possibilities. If such number exceeds estimated fishing possibilities, the Minister responsible for marine fisheries must stop issuing any new commercial fishing permits, except when the new vessel is intended to replace an authorized vessel (Article 19 of the Marine Fisheries Act of 2002).

Exploitation of the national quota for certain species of fish is subject to an authorization of the Minister responsible for marine fisheries (Article 32 of the Marine Fisheries Act of 2002).

##### **b) Fishing gear**

In Slovenian internal and territorial waters, it is strictly prohibited to:

- (i) use St Andrew's crosses or similar equipment for harvesting corals;
- (ii) use or carry on board fishing vessels any toxic or corrosive substances, electric shock generators or explosive substances;
- (iii) use pneumatic hammers for gathering fishery resources;
- (iv) use any type of dredges;
- (v) use surrounding nets and seine nets from a fishing vessel in a way that enables fishing from the shore; and
- (vi) use any type of device enabling underwater breathing.

Use of dredges in Slovenian internal and territorial waters may be permitted by the Minister responsible for marine fisheries: (i) for scientific research or educational purposes; or (ii) in the event of a mass appearance of bivalves caused by the mass extinction of various biocenosis inhabiting the seabed (Article 7 of the Marine Fisheries Act of 2002).

##### **c) Protection of juvenile fish**

According to Reg. EC No. 1626/1994, intentional catching of juvenile fish is strictly prohibited throughout Slovenian waters. However, the Minister may exceptionally, in agreement with the Minister responsible for environment protection, permit the catching of juvenile fish for aquaculture purposes. The authorization must specify the area, the period and the fishing gear or tools that can be used for the catching of juvenile fish. In addition, the Minister may subject such operation to such conditions as it may deem fit (Article 9 of the Marine Fisheries Act of 2002).

#### d) Fisheries reserves

Two fisheries reserves have been created in Slovenian waters for the protection of fishery resources and aquaculture namely, the Portorož fisheries reserve and the Strunjan fisheries reserve (Article 12 (1) of the Marine Fisheries Act of 2002).

In fisheries reserves, commercial fishing activities are generally prohibited. However, in the event of the appearance of winter schools of fish, the Minister responsible for marine fisheries may permit commercial fishing therein. The period, methods of fishing and other conditions for carrying out such commercial fishing operations must be specified in the special commercial fishing permit issued by the Minister responsible for marine fisheries (Article 12 (3), (4) and (5) of the Marine Fisheries Act of 2002).

No non-commercial fishing activities other than sport and recreational fishing from the shore are allowed in fisheries reserves. However, the Minister responsible for marine fisheries may permit therein, under certain conditions, the conduct of scientific research operations, the monitoring of fishery resources and the catching of fish for national public aquariums (Article 12 (6) and (8) of the Marine Fisheries Act of 2002).

No vessel other than those in respect of which a special commercial fishing permit has been issued are authorized to navigate through fisheries reserves (Article 12 (9) of the Marine Fisheries Act of 2002).

#### e) Prohibited fishing areas

In order to protect fishery resources from excessive exploitation, the Minister responsible for marine fisheries may, in a specified area, permanently or temporarily prohibit or restrict fishing in general or a specific form of fishing in particular (Article 10 (1) of the Marine Fisheries Act of 2002).

Use of any type of dragged gear is prohibited within 3 nautical miles of the coast or within the 50m isobath where that depth is reached at a shorter distance. Use of dragged gear in these areas may be permitted by the Minister responsible for fisheries on the basis of an expert opinion provided by a public service carrying out the monitoring of fishery resources, provided that use of such gear will have no negative impact on fishery resources (Article 10 (2) and (3) of the Marine Fisheries Act of 2002).

Fishing using dragged gear above “blossoming aquatic vegetation”<sup>41</sup> is strictly prohibited throughout Slovenian waters (Article 10 (4) of the Marine Fisheries Act of 2002).

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<sup>41</sup> Here is reproduced the terminology used in the English translation provided to the consultant. However, it seems that this provision aims at integrating EU regulations within Slovenian fisheries law. Therefore, “blossoming aquatic vegetation” is likely to refer to Posidonian beds and other phanerogams as provided for in Article 3.3 of Council Regulation (EC) No. 1626/94 of 27 June 1994.

Use of encircling nets within 300 m of the coast or within the 30 m isobath where that depth is reached at a shorter distance is strictly prohibited (Article 10 (5) of the marine Fisheries Act of 2002).

#### **4.4.2.3 Recreational and sport fishing**

Article 28 (6) of the Marine Fisheries Act of 2002 empowers the Minister responsible for marine fisheries to prescribe, *inter alia*, the fishing gear and methods that may be used in sport and recreational fishing as well as the daily bag limits applicable to such activities.

While use of an underwater gun within Slovenian waters for sport fishing purposes is subject to a permit, use of such instrument within Slovenian waters is strictly prohibited in the conduct of recreational fishing operations (Article 29 (1) and (2) of the Marine Fisheries Act of 2002).

Sport fishing using an underwater gun is prohibited from sunset to sunrise (Article 29 (4) of the Marine Fisheries Act of 2002).

## **5 Monitoring, control and surveillance**

Monitoring, control and surveillance (MCS) is an integral and essential component of fisheries management. MCS programs generally encompass the gathering of information on fishing effort characteristics and resource yields, the regulatory conditions under which the exploitation of fishery resources is to be conducted and the types of observations required to ensure compliance with regulatory controls imposed on fishing activities. This paper will primarily focus on MCS measures providing for the registration of fishers and fishing vessels, the marking of fishing vessels, observer programs and information reporting.

### **5.1 Albania**

#### **a) Register**

Law No. 7908 of 1995 provides for the establishment of a register of professional fishers and a register of fishing vessels (Articles 12 and 13).

While the General Directorate of Fisheries keeps a general register of professional fishers recording all persons engaged in professional fishing throughout Albanian waters, the regional offices of the Fishery Inspectorate maintain regional registers of professional fishers operating within their respective area of jurisdiction. The register of professional fishers consists of two parts, one dealing with fishers using vessels equipped with a deck and the other with fishers fishing using vessels without deck or involved in fishing activities not requiring the use of any vessel. Information to be shown in the register of professional fishers includes any reported violation of any fisheries law or regulation together with the penalties that were imposed (Article 17 of Fisheries Regulations No. 1 of 1997). Any person wishing

to engage in professional fishing within Albanian waters is required to be registered (Article 19 of Fisheries Regulations No. 1 of 1997). It should be noted that professional qualifications might be required for any person wishing to register as a professional fisher (Article 24 of Fisheries Regulations No. 1 of 1997). Application is made to the General Directorate of Fisheries, which reviews the application form together with other required documents (Article 18 of Fisheries Regulations No. 1 of 1997). Upon approval, a registration card is issued to the applicant who must carry it with him/her at all times and must show it to fisheries inspectors where required to do so (Article 20 of Fisheries Regulations No. 1 of 1997). Registration is automatically terminated in the event of: (i) the registered person's death; (ii) illness or injury preventing the registered person from continuing his/her fishing activity; (iii) and interruption of fishing activity for a period exceeding three years. In addition, a person's registration may be terminated for breach of law on the request of a fishery inspector (Article 23 of Fisheries Regulations No. 1 of 1997).

The General Directorate of Fisheries keeps a general register of fishing vessels, whereas offices of the Fishery Inspectorate at the district level maintain local registers of fishing vessels. Registers consist of two parts dealing respectively with fishing vessels equipped with a deck and with coastal vessels without deck, regardless of their means of propulsion. Information to be entered in the registers includes vessels' technical characteristics (Article 25 of Fisheries Regulations no. 1 of 1997). It is interesting to note that, in Albania, licensing of fishing vessels appears to be a prerequisite to fishing vessels' registration whereas it is usually the other way around (Article 26 of Fisheries Regulations No. 1 of 1997)<sup>42</sup>.

#### b) Marking

Fishing vessels authorized to conduct professional fishing operations in Albanian waters must be marked in compliance with the FAO Standards Specifications for the Marking and Identification of Fishing Vessels (Article 38 of Fisheries Regulations No. 1 of 1997).

#### c) Landing of catch

All Albanian and foreign fishing vessels authorized to engage in professional fishing within Albanian waters are required to land their catches in an Albanian fishing port (Article 21 of Law No. 7908 of 1995)

#### d) Data collection

Every fishing license holder is required to submit, on a monthly basis, statistical data in prescribed forms<sup>43</sup> to the competent regional office of the Fisheries Inspectorate (Article 25 of Law No. 7908 of 1995 and Article 61 (1) of Fisheries Regulations No. 1 of 1997). In

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<sup>42</sup> According to the English translation made available to the consultant, Article 26 of Fisheries Regulations No. 1 of 1997 stipulates that "the registration in the register of the fishing sailing means is done after the issuing of the corresponding fishing license. The means, which are not equipped with a fishing license, are not registered in the register".

<sup>43</sup> Fisheries Regulations No. 1 of 1997 establish 6 categories of forms in relation to various types of fishing, including trawling and purse seining. Samples of these forms are annexed to Fisheries Regulations No. 1 of 1997.



addition, license holders must complete annual statistical data in prescribed forms<sup>44</sup> to be submitted to the competent authority (Article 61 (2) of Fisheries Regulations No. 1 of 1997). Any license holder who fails to report required information or falsifies this information is liable to a fine ranging from 10 000 to 50 000 leks (Article 39 (16) of Law No. 7908 of 1995).

#### e) Observers

The Ministry responsible for marine fisheries may impose to any professional fishing license holder the taking of observers on board the vessel for the purpose of collecting scientific data (Article 16 of Law 7908 of 1995). License holders have a duty to allow designated observers to stay on board the vessel and must facilitate the carrying out of their mission (Article 37 (1d) of Fisheries Regulations of 1997).

## 5.2 Croatia

#### a) Register

Issuing authorities (field offices of the Ministry responsible for fisheries)<sup>45</sup> are required to maintain a commercial fishing license register and a small-scale fishing license register including all fishing licenses issued by them (Articles 14 and 26 of the Marine Fisheries Act of 1997). Information to be contained in the commercial fishing license register includes: a) the field office which issued the commercial fishing license; b) data on the vessel in respect of which the license was issued; c) data on the license holder; d) the license status (valid, cancelled, suspended); and e) type of gear (Article 8 of Regulations on Commercial Fishing License of 1997).

#### b) Data collection

Any license holder engaged in commercial fishing is required to keep a logbook and has a duty to keep it on board the vessel at all times. Supply of information on commercial fishing activities is a legal obligation (Article 57 and 58). Any person who fails to provide the required information on commercial fishing activities is liable:

- a) for a first offence, to a fine ranging from 2 000 to 10 000 kunas;
- b) for a second offence, to a fine ranging from 2 000 to 10 000 kunas and the commercial fishing license is automatically suspended for a 3 to 6 month period;
- c) for a third offence, to a fine ranging from 2 000 to 10 000 kunas and the commercial fishing license is automatically suspended for a 3 to 5 year period (Article 77 of the Marine Fisheries Act of 1997).

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<sup>44</sup> Samples of these forms are annexed to Fisheries Regulations No. 1 of 1997.

<sup>45</sup> 7 field offices of the Ministry responsible for marine fisheries have been created along the Croatian coast. They are located in Pula for the Istra County, in Rijeka for the Primorsko-Goranska County, in Senj for the Licko-Senjska County, in Zadar for the Zadar County, in Sibenik for the Sibenik-Knin county, in Split for the Splitsko-Dalmatinska County and in Dubrovnik for the Dubrovnik-Neretva County (Article 2 of the Regulation on Commercial Fishing License of 1997 (99/97)).

Likewise, small-scale fishermen are required to furnish information in relation to the quantity and size of the catch (Article 59 of the Marine Fisheries Act of 1997). Any small-scale fisherman who fails to supply the required information is liable to a fine ranging from 300 to 1 500 kunas (Article 79 of the Marine Fisheries Act of 1997). In addition, his/her catch must be confiscated as well as his/her fishing gear and equipment (Article 81 of the Marine Fisheries Act of 1997).

Regulations on the Supply and Collection of Commercial Fisheries Related Data of 2000 (6/00) establish four categories of logbooks in relation to the type of gear used (purse seine nets, trawl nets, small-scale fishing gear and tools used for the collecting of other sea organisms). They prescribe the form and content of the various logbooks as well as the manner by which it is to be sent to the competent authority. Required data must be entered daily and sent to the competent authority on a monthly basis.

### **5.3 Serbia-Montenegro**

#### **a) Register**

A permit for commercial fishing is issued by the Ministry and must contain: the name of the company; the name or register mark of the vessel or a number of vessels; the fishery area or zone where commercial fishing is permitted; the purpose, kind, technical characteristics and quantities of fishing tools and gear for commercial fishing operations; the size of the vessel and horsepower of the engine of the vessel; the fee. Permits are entered in the register of permits issued and which is kept by the Ministry responsible for marine fisheries (Article 11 of the Law on Marine Fishery of 2003).

#### **b) Data collection**

Companies and entrepreneurs engaged in fishing, i.e. cultivation, must keep logs on fishing. Form, contents and methods for keeping logs on fishing or cultivation are laid down by the Ministry. On the basis of Article 51 paragraph 3 of the Law on Marine Fisheries, the Rulebook on form, contents and keeping of registers on fishing or cultivation activities N° 10/2004 lays down the form, contents and method of keeping registers on commercial fishing that companies and entrepreneurs are obliged to keep (Article 1 of this Rulebook).

Users of permits for commercial fishing or cultivation are obliged to submit the data from their records to the Ministry at the end of the six-month term of every year (Article 2 of the Rulebook).

A fine ranging from 250 to 300 minimal wages in the Republic shall be imposed on a company or entrepreneur in case of:

- 1) not keeping the log on fishing and the log on cultivation, or register on quantities or sorts of food used in breeding sites;
- 2) when the log on fishing and the log on cultivation are not aboard the vessel, i.e., on the breeding site;

- 3) not forwarding the log on fishing or the log on cultivation to the Ministry for every half-year within the validity period of the permit (Article 57 of the Law on Marine Fishery of 2003).

#### c) Observers

Users of the permits for fishing and cultivation are obliged to receive on their vessel and breeding site scientists and experts, on the basis of a decision issued by the Ministry, for the purpose of sampling and control of biological resources within protection laid down by this Law, free of charge (Article 52 of the Law on Marine Fishery of 2003).

### **5.4 Italy and Slovenia as European Union member states**

#### a) Fishing fleet registers

Reg. 2371/2002 establishes that each Member State shall keep a register of the Community fishing vessels flying its flag which shall include the minimum information on vessel characteristics and activity that is necessary for the management of measures established at Community level.

The same Reg. EC 2371/2002 dictates that the European Commission shall set up a Community fishing fleet register containing the information that it receives from each Member State and shall make it available to other Member States.

It is opportune to note that the provisions for fleet registers are not a new introduction but originate from previous EC regulations.

#### b) Monitoring and data collection

Where monitoring, control and surveillance are concerned, Reg. EC 2371/2002 requires that:

- a fishing vessel shall have installed on board fully-working system which allows the detection and identification of the vessel by remote monitoring systems. This requirement applies to vessels exceeding 18 metres overall length as from 1 January 2004 and to vessels exceeding 15 metres overall length as from 1 January 2005;
- the master shall without undue delay record and report information on fishing activities, including landings and transshipments. Copies of the records shall be made available to the authorities. (The Council shall decide on the obligation to transmit such records electronically. In order to assess the technology to be used, Member States, in cooperation with the Commission, shall carry out pilot projects);
- the master shall accept inspectors on board and cooperate with them; and where an observer scheme applies, the master shall also accept observers on board and cooperate with them;
- the master shall respect conditions and restrictions relating to landings, transshipments, joint fishing operations, fishing gear, nets and the marking and identification of vessels.

EC Reg. 2371/2002 also establishes that the marketing of fisheries products shall be subject to the following requirements:

- fisheries products shall only be sold from a fishing vessel to registered buyers or at registered auctions;
- the buyer of fisheries products from a fishing vessel at first sale shall be registered with the authorities;
- the buyer of fisheries products at first sale shall submit invoices or sales notes to the authorities, unless the sale takes place at a registered auction which is itself obliged to submit invoices or sales notes to the authorities;
- all fisheries products landed in or imported into the Community for which neither invoices nor sales notes have been submitted to the authorities and which are transported to a place other than that of landing or import shall be accompanied by a document drawn up by the transporter until the first sale has taken place;
- the persons responsible for premises or transport vehicles shall accept inspectors and cooperate with them;
- where a minimum size has been fixed for a given species, operators responsible for selling, stocking or transporting must be able to prove the geographical origin of the products.

Only a buyer acquiring products that are not thereafter placed on the market but used exclusively for private consumption shall be exempt from the requirements described.

Therefore the responsibilities of Member States is to ensure effective control, inspection and enforcement of the rules of the Common Fisheries Policy in their territory or in the waters subject to their sovereignty or jurisdiction. To achieve this Member States should set up the necessary administrative and technical infrastructure.

Member States are also required to adopt the measures, allocate the financial and human resources and set up the administrative and technical infrastructure necessary to ensure effective control, inspection and enforcement of the Regulations, including satellite based monitoring systems.

It is important to note that in April 2004, the European Commission presented the proposal to create a Community Agency for Fishery Control to Member States. The idea consists in the organization of the Member States' resources and structure as well as guaranteeing the effectiveness of a common surveillance system.

#### **5.4.1 Italian enforcement system**

In Italy no legal or natural persons are allowed to engage in commercial fishing without the preliminary registration in the Fishing Company Register. Crew members are also registered in the Seamen Register and ships are recorded in apposite Vessels Register. This obligatory recording regime came from the Navigation Code, Presidential Decree No. 328/1952 of 1952, Law No. 963/1965 of 1965, and Presidential Decree No. 1639/1968 of 1968.

In order to register, professional seamen must satisfy the following statutory requirements:

- a) they must show that fishing is their sole or principal source of income; and

- b) they must demonstrate that they have acquired adequate professional knowledge and skills to conduct commercial fishing operations (training course).

Currently this regime is confirmed by the context of the new Legislative Decree 153/2004. The registers are kept by the local offices of the Ministry of Transport (*Comando Generale delle Capitanerie di Porto* or Coast Guard Authorities) located along the Italian coastline.

Italy has adhered to the EC provision that governs the implementation of a satellite based monitoring systems ('Blue boxes') on vessels over 24 meters. Plans are being put in place to implement the monitoring system for vessels under 24 meters and over 18 meters.

Italian Government set up the necessary administrative and technical infrastructure creating, in accordance with Coast Guards Headquarters, two military squads: 1) The National Fishery Control Centre (Centro Controllo Nazionale Pesca - CCNP); and 2) The National Unit of Fishery Inspectors.

The latter is responsible for fishery operations in the high seas according to international conventions on Flag State responsibility (UN Convention on the Law of the Seas, 1982 and UN Fish Stocks Agreement, 1995).

#### **5.4.2 Slovenian enforcement system**

- a) Register

The Ministry responsible for marine fisheries is required to keep a register of fishing vessels in respect of which commercial fishing permits or special commercial fishing permits have been issued. Information to be entered in the register is to be determined by the Minister responsible for marine fisheries. It is the duty of commercial fishing permit holders to register the fishing vessel in respect of which a commercial fishing permit or a special commercial fishing permit has been issued (Article 14 of the Marine Fisheries Act of 2002). It is interesting to note that in Slovenia, registration of fishing vessels is a consequence of licensing rather than a prerequisite.

- b) Data reporting

Any legal or natural persons engaged in commercial fishing within Slovenian waters using a fishing vessel, whose total length equals or exceeds 10 m, are required, upon completion of each fishing trip, to submit data on fishing activities to the competent authority (Article 15 (1) of the Marine Fisheries Act of 2002). To this end, they must keep a logbook in which quantity, time and place of catch must be recorded on a daily basis (Article 77 (1) of the Marine Fisheries Act of 2002). Although they are required to record fishing information, fishing vessels less than 10-m long are not subject to regular data reporting. However, in port inspectors may control their data keeping at any time. Data collection procedures and methods of data communication are to be determined by the Minister responsible for marine fisheries (Article 15 of the Marine Fisheries Act of 2002)

Designated locations of first sales of fish or fish products are required to provide daily information on trade in fish and fish products, including the species, quantity and prices of fish and fish products (Article 79 of the Marine Fisheries Act of 2002).

c) Monitoring of movement of fishing vessels

The body responsible for maritime affairs is competent for the land-based monitoring of fishing vessels' movement (Article 76 of the Marine Fisheries Act of 2002).

d) Landing of catch

Commercial fishing vessels flying the Slovenian flag are not allowed to land their catch in any place other than the fishing ports of Koper, Izola or Piran (Article 78 of the Marine Fisheries Act of 2002).

A fishing vessel registered in a third country<sup>46</sup> that wishes to land fish or fish products in the Republic of Slovenia is required to notify the Ministry responsible for marine fisheries at least 72 hours prior to scheduled arrival. Foreign fishing vessels must land their catch in the fishing port of Koper (Article 80 of the Marine Fisheries Act of 2002).

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<sup>46</sup> Note that the term *third country* refers to “any non-EU member state” (Article 4 of the Marine Fisheries Act of 2002). As a result, the notification procedure for landing catch in Slovenia by a foreign fishing vessel will cease to apply to EU vessels the day the Republic of Slovenia will have become a full member of the European Union (Article 104 of the Marine Fisheries Act of 2002).

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