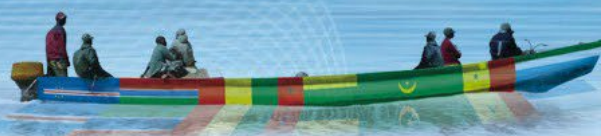




COMMISSION SOUS-RÉGIONALE DES PÊCHES
SUB-REGIONAL FISHERIES COMMISSION



PROPOSAL TO SRFC MEMBER STATES
Protocol to Amend the CCMA:
"Strengthening the Fight Against IUU Fishing
Through the Use of the (AIS)"

Version 5
July 2025



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This working document, intended for the use of the SRFC Coordination Committee, cannot be cited without the approval of the Chair of the Coordination Committee.

The first version was drafted in July 2024 at the SRFC



Preamble

This document presents recommendations on the use of the Automatic Identification System (AIS) to facilitate the surveillance of foreign fishing vessels engaged in Distant Water Fishing (DWF) within the waters under the jurisdiction of SRFC member states. The goal is to make AIS use mandatory for foreign-flagged fishing vessels (non-SRFC states) operating in these waters. A draft protocol to amend the Convention on Minimum Conditions for Access to Fishery Resources (CCMA) has been submitted to the coordination committee for validation.

Proposed Text to the SRFC Coordination Committee

To make AIS mandatory for foreign fishing vessels (non-SRFC) operating in the waters under the jurisdiction of SRFC member states, it is suggested that its use be legally regulated at the sub-regional level. SRFC member states can enhance the surveillance of their fisheries by adopting a protocol to the CCMA Convention without incurring major financial or logistical difficulties. The regulation of AIS use can be integrated via an amendment protocol to the CCMA Convention.

It is proposed to introduce a new title immediately following Article 4 of the CCMA Convention, worded as follows: **"Title III: Requirements for Carrying the Automatic Identification System (AIS)"**.

Protocol of Amendment to the Convention on Minimum Conditions for Access to and Exploitation of Resources within the Maritime Zones under the Jurisdiction of CSRP Member States, aimed at strengthening the fight against IUU fishing through the mandatory use of the Automatic Identification System (AIS).

- The Government of the Republic of Cabo Verde;
- The Government of the Republic of The Gambia;
- The Government of the Republic of Guinea;
- The Government of the Republic of Guinea-Bissau;
- The Government of the Islamic Republic of Mauritania;
- The Government of the Republic of Senegal ;
- The Government of the Republic of Sierra Leone.

Considering the 2012 Convention on the Determination of Minimum Conditions for Access to and Exploitation of Fishery Resources within the Maritime Zones under the Jurisdiction of CSRP Member States, known as "CCMA »;

Aware that marine spaces are closely interconnected and must be managed as a whole;

Emphasising the importance of the provisions of the United Nations Convention on the Law of the Sea of 1982;

Noting that the International Convention for the Safety of Life at Sea (SOLAS) can significantly contribute to improving the safety of ships and property at sea, fisheries surveillance, and the safety of human life on board ships, particularly its Chapter V;

Considering the 1993 Agreement, which aims to promote compliance by fishing vessels on the high seas with international conservation and management measures;

Considering also the 1995 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;

Reaffirming their commitment to the principles and standards outlined in the Code of Conduct for Responsible Fisheries of the Food and Agriculture Organization of the United Nations (FAO);

Recalling their willingness to implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IUU fishing);

Conscious of the scale of IUU fishing activities in the sub-region and the harm they cause to the economy, food security, and sustainable management of fishery resources of the CSRP Member States;

Concerned about the negative impacts of IUU fishing in the CSRP maritime zones;

Aware of the need to adopt and implement provisions for fisheries monitoring, control, and surveillance within the maritime zones under the jurisdiction of CSRP Member States;

Desirous of strengthening sub-regional cooperation in fisheries surveillance to combat IUU fishing effectively.

Have agreed as follows:

Article 1: Purpose and Scope

1. This Protocol supplements the provisions of the Convention on Minimum Conditions for Access to and Exploitation of Resources within the maritime zones under the jurisdiction of CSRP Member States.
2. The Protocol outlines the procedures for utilising the Automatic Identification System (AIS).
3. This Protocol applies to foreign fishing vessels that, depending on their fishing activity or route plan, navigate or fish in the waters under the jurisdiction of CSRP Member States.
4. This Protocol does not apply to:
 - Warships;
 - Vessels owned or operated by a State when used as auxiliary warships or for customs or police purposes;
 - Vessels that have been withdrawn from navigation or laid up.

No provision of this Protocol shall affect the immunities enjoyed by warships and other State vessels used for non-commercial purposes.

Article 2: Definitions

For the purposes of this Protocol:

"Fishing-related activities" means any support or preparatory operation for fishing purposes, including landing, processing, transforming, or transporting fish products that have not been previously landed in a port, as well as providing personnel, changing crews, and supplying fuel, gear, and provisions at sea;

"Fisheries control and surveillance officer" means any administrative officer or any other person empowered by the applicable legislation of a Member State to investigate, ascertain, and record fishing infractions;

"AIS" (Automatic Identification System) is an anti-collision device in the form of an onboard transponder capable of providing information (*e.g.*, heading, speed) about a vessel to other equipped vessels and coastal national SCS authorities in real-time, as described by the International Maritime Organization;

"UNCLOS" means the United Nations Convention on the Law of the Sea of 1982;

"COLREG" means the International Regulations for Preventing Collisions at Sea 1972;

"Conference of Ministers" means the Conference of Ministers responsible for fisheries of the Member States of the Sub-Regional Fisheries Commission established by the Convention of 29 March 1985 creating the Sub-Regional Fisheries Commission;

"CCMA" means the CSRP Convention of 08 June 2012 relating to the determination of minimum conditions for access to and exploitation of fishery resources within the maritime zones under the jurisdiction of CSRP Member States;

"SCS Convention" means the convention on cooperation between CSRP Member States for the monitoring, control, and surveillance of fishing activities;

"CSRP" means the Sub-Regional Fisheries Commission;

"Flag State" means the State that grants a vessel the right to fly its flag, thereby conferring nationality for all navigation;

"Third State" means any State that is not a member of the CSRP;

"Length overall" (LOA), or "Length Overall" (LOA) in English, refers to the maximum length of the vessel, the longest measurement of the vessel from bow to stern, including anything permanently affixed;

"Fishing vessel" means any vessel used for fishing or intended for such purposes, including support vessels, carrier vessels, and any other vessel directly involved in these fishing activities;

"Foreign fishing vessel" means any fishing vessel flying the flag of a non-CSRP Member State;

"IMO" means the International Maritime Organization;

"Third country" means a non-CSRP Member country;

"Non-cooperating third country" means a third country that is considered non-cooperating if it fails to fulfil its obligations under international law and regional agreements, and does not take the necessary measures to prevent, deter, and eliminate IUU fishing;

"Fishing" means any activity aimed at extracting, killing, or capturing by any method species whose natural environment is water;

"Artisanal fishing" means a traditional activity involving fishing households, with low capital and energy, relatively small fishing vessels, making short fishing trips close to shore, and primarily for local consumption;

"IUU fishing" means illegal, unreported, and unregulated fishing;

"Fishery" means one or more stocks of species and the operations based on these stocks, which, identified based on geographical, economic, social, scientific, technical, or recreational characteristics, can be considered as a unit for conservation, management, and development;

"SCS" means fisheries monitoring, control, and surveillance;

"SOLAS" means the International Convention for the Safety of Life at Sea, of 1974;

"SCS structure" refers to the implementation of fisheries management measures. Monitoring gathers information on the fishery used to help develop and evaluate appropriate management measures, while surveillance uses this information to ensure that controls are complied with;

"GT" (Gross Tonnage) means gross tonnage, a method of measuring a ship's carrying capacity.

Article 3: Obligations

Every foreign fishing vessel, with the exception of artisanal fishing vessels and vessels with an overall length of less than 15 meters, must at all times have its AIS activated correctly in the waters under the jurisdiction of CSRP Member States.

Article 4: Responsibility

1. No provision of these articles shall relieve either a vessel, its owner, master, or crew from the consequences of any negligence whatsoever regarding the proper functioning of the AIS, the application of the articles of this Protocol, or any precaution required by ordinary seamanship or the particular circumstances in which the vessel finds itself.
2. In interpreting and applying this Protocol, due regard must be given to all dangers of navigation and collision risks, as well as to all particular circumstances, including the

limitations of the AIS system, which may necessitate a departure from these articles to avoid immediate danger.

Article 5: AIS Data

The data provided by the AIS shall be made available to the SCS structure of each Member State for fisheries surveillance.

The AIS must:

1. Automatically provide the SCS structure and other vessels equipped with the same appropriate equipment with information, including the vessel's identity, type, most recent geographical position (longitude, latitude) with an error margin of less than 500 meters and a 95% confidence interval, as well as its heading, speed, and navigation conditions;
2. Automatically receive such information from similarly equipped vessels;
3. Monitor and track fishing vessels; and
4. Exchange data with shore-based facilities.

Article 6: Deactivation of AIS for Exceptional Circumstances

The master of a foreign fishing vessel may turn off the AIS in exceptional circumstances when they believe that the safety of the crew may be compromised under Rule 34-1 of Chapter V of the SOLAS Convention.

Article 7: Notification of AIS Deactivation

1. The deactivation of the AIS, as referred to in Article 6 entails the obligation to notify the SCS structure of the Member State.
2. The notification shall state the reason for the temporary deactivation of the AIS.
3. In exceptional circumstances where it is not possible to anticipate the interruption of AIS data transmission, the national SCS authorities must be informed within a maximum of twenty-four (24) hours after the interruption or deactivation of the AIS. This information shall be accompanied by the justification for the interruption and transmitted in accordance with the procedures set out in the first paragraph of this Article.

Article 8: AIS Status

1. The master shall reactivate the AIS as soon as the situation referred to in Article 6 and Article 7, paragraph 2, which justifies the deactivation of the AIS, has ceased.
2. If the deactivation of the AIS continues beyond twenty-four hours, the master must inform the **SCS structure** of the Member State of their position and course every twenty-four hours, as described in Article 7 of this Protocol.

Article 9: Verification

The national **SCS authorities** of the Member States may carry out all verifications they deem necessary to ensure that the provisions of this Protocol are correctly applied.

Article 10: Publication of Alert Notices

When information obtained by the **SCS structure** of a Member State in application of the rules raises a reasonable doubt about the compliance of foreign fishing vessels concerning the use of AIS as defined in this Protocol, this **SCS structure** is obliged to inform all **SCS structures** of the other Member States and to publish on their websites an alert notice available to fisheries stakeholders.

Article 11: Non-Cooperating Foreign Fishing Vessel

A foreign fishing vessel may be recognized as non-cooperating if it fails to fulfil its obligations relating to measures to be taken for the use of the AIS system in the waters under the jurisdiction of the Member States for fisheries surveillance as defined in Article 3 of this Protocol.

Article 12: Approach Towards Non-Cooperating Foreign Fishing Vessels

1. The Member State that has established the infraction shall promptly notify the Flag State of the non-cooperating foreign fishing vessel in accordance with the criteria established in Article 11 of this Protocol.

This notification shall include:

- a. The reason(s) for the decision to recognise the said vessel as non-cooperating, with supporting evidence;
- b. The possibility for the Flag State to respond in writing regarding the decision of recognition as a non-cooperating foreign fishing vessel or to communicate any other relevant information, for example, evidence refuting this recognition or, where appropriate, an action plan aimed at improving the situation and corrective measures taken;
- c. The right to request or provide additional information;
- d. The consequences arising from the recognition as a non-cooperating foreign fishing vessel.

2. The Member State shall also include in the notification referred to in paragraph 1 of this Article a request inviting the concerned third country to take all necessary measures to keep its AIS activated and to prevent any future deactivation.

3. The Member State shall use various means of communication to transmit its notification and request to the concerned third country. It shall ensure that this third country has effectively received the notification.

4. The Member State shall grant the concerned third country sufficient time to respond to the notification and a reasonable period to remedy the situation.

Article 13: Procedure Applicable in Case of Infringement

1. If the information gathered by the **SCS structure** of a Member State contains evidence suggesting that the foreign fishing vessel has not activated its AIS, the **SCS structure** shall: a) Record the alleged infringement in its report; b) Take all necessary measures to ensure the security of the evidence relating to the alleged infringement; c) Immediately forward the report to the national **SCS authority**.

2. If the information obtained in paragraph 1 of this Article establishes that a foreign fishing vessel has indeed not activated its AIS system, the **SCS structure** shall immediately notify the national **SCS authority**, attaching a copy of the report; the national **SCS authority** shall forward

the report to the Flag State of the inspected foreign fishing vessel once the procedures set out in Article 12 of this Protocol have been exhausted.

Article 14: Sanctions

Any breach of these provisions may lead to the application of an administrative sanction in accordance with the laws and regulations of the Member State.

The pronounced sanctions shall be accompanied by measures that deprive the non-cooperating foreign fishing vessel of any economic benefit resulting from the non-use of the AIS system.

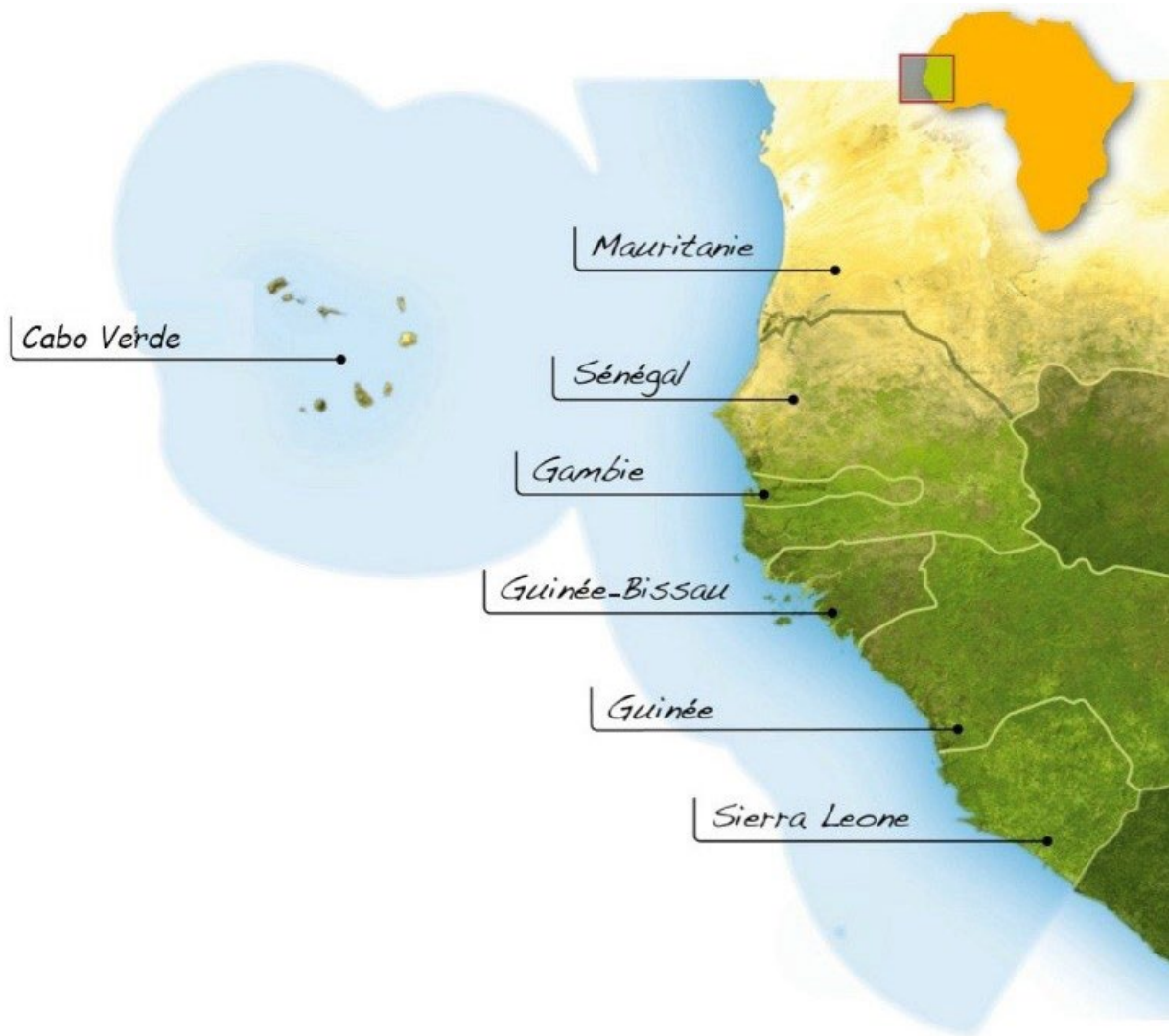
The Member State that has pronounced the sanctions shall inform the Flag State of the non-cooperating foreign fishing vessel and all other CSRP Member States of the sanctions imposed against it.

Article 15: Entry into Force

This Protocol shall enter into force on the hundredth day following its signature by the parties.

Résumé

The Automatic Identification System (AIS), adopted by the Sub-Regional Fisheries Commission (SRFC) member states (MS), plays a role in maritime security. However, its effectiveness in combating illegal fishing remains limited because its use is not legally mandatory for foreign fishing vessels under 300 gross tonnage (GT) operating in the waters under the jurisdiction of SRFC MS. It is proposed that AIS use be made mandatory for foreign fishing vessels entering the waters under the jurisdiction of SRFC MS. This measure, coupled with the establishment of a binding sub-regional legal framework, would substantially reduce illicit activities by foreign fishing vessels. This would provide a new tool for surveillance bodies, promote a participatory approach, and strengthen maritime surveillance and security. It would also facilitate the boarding of infringing vessels, increase the effectiveness of control actions (even in the absence of observed illegal fishing offences) and enable better cooperation among member states. Finally, AIS data serves as a source of information for calculating fishing effort and as a tool for participatory surveillance.



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