

March 2013



**GENERAL FISHERIES COMMISSION FOR
THE MEDITERRANEAN**

**COMMISSION GÉNÉRALE DES PÊCHES
POUR LA MÉDITERRANÉE**



Seventh Session of the Compliance Committee (CoC)

Split, Croatia, 13–17 May 2013

**EXECUTIVE REPORT ON SELECTED ISSUES BEFORE THE
COMPLIANCE COMMITTEE**

INTRODUCTION

1. This report provides a summary of the intersessional activities carried out by the Compliance Committee (CoC) of the General Fisheries Commission for the Mediterranean (GFCM) in 2012–2013 as well as a preliminary work plan for 2013–2014. Informative documents with details on the various activities addressed herein are available as documents CoC:VII/2013/Inf.6, 7, 8 and 9.

INTERSESSIONAL ACTIVITIES OF CoC IN 2012–2013

2. At its thirty-sixth session (14–19 May 2012, Marrakech, Morocco) the Commission reviewed and adopted the report of the sixth session of CoC, held at the same venue on 15 May 2012. There were no concrete proposals of a work plan for 2012–2013, although some actions were recommended to be undertaken during the intersession. Progress made under each and every of them, as relevant, was discussed at the first meeting of the Bureau of CoC (12 April 2013, GFCM HQs, Rome, Italy) and is reported below under a separate heading.

Task Force for the modernization of the GFCM legal and institutional framework

3. At the sixth session of CoC, the work done by the Task Force on issues relating to compliance and enforcement was presented to collect the views of the Committee. In discussions, the paramount importance of compliance with GFCM recommendations was unanimously recognized. It was hence recommended that the role of CoC be strengthened in connection with the amendment process of GFCM basic texts. A preliminary analysis of the draft amended GFCM Agreement, in particular, is indicative of the will to endow the CoC with a more prominent role. Since the GFCM amendment process item has only been included in the agenda of the thirty-seventh session of the Commission, no action had to be undertaken within the remit of CoC. This issue does not seem to require to be examined during the next intersession.

FAO Global Record

4. Collaboration was proposed in relation to the ongoing development of the FAO global record, with a view of including FAO support to GFCM vessel records and IUU vessel list. There have been several discussions between the FAO and GFCM on how to operationalize this collaboration during the intersession. At the moment of writing, they are in fact still taking place in view of steps to be taken. This issue should therefore remain on the CoC agenda for the next intersession.

Identification of non-compliance

5. Last year's discussions on Recommendation GFCM/34/2010/3 "concerning the identification of non-compliance" were postponed. To enable CoC to examine this very important matter, since the identification of non-compliance process envisaged by Recommendation GFCM/34/2010/3 would drastically contribute to elicit compliance, an informative document has been prepared by the GFCM Secretariat (GFCM:CoC7/2013/Inf.7). This document suggests that the Committee consider the adoption of the model letter for the identification of GFCM Members and the model letter for the identification of non-Members to be sent by the Executive Secretary. Both model letters are reproduced under Appendix A. This issue should remain on the CoC agenda for the next intersession.

Progress on the implementation of a vessel monitoring system (VMS) and related control systems in the GFCM area

6. In light of key administrative, legal and technical constraints experienced by some GFCM Members in the implementation of Recommendation GFCM/33/2009/7 "concerning minimum standards for the establishment of a Vessel Monitoring System in the GFCM Area", it was recommended that the GFCM Secretariat prepare a document analysing the status of the implementation of this recommendation as well as such constraints. An informative document has therefore been prepared by the GFCM Secretariat (GFCM:CoC7/2013/Inf.8). This document cursorily recaps the status of Recommendation GFCM/33/2009/7 in GFCM Members and links administrative, legal and technical elements to a broader (than VMS) control system in the GFCM area. In this connection, the document recalls the modular approach proposed by the "Guidelines for a technical cooperation programme in the monitoring of fishing vessels in the GFCM Area of competence" which were presented last year but were not adequately discussed by GFCM Members. In order to ensure further progress, not only in the implementation of VMS, but also on a regional control system in general, it has been proposed to establish a working group on control consistent with past practice (i.e. "Ad-Hoc Working Group of the Compliance Committee on VMS as a MCS tool", 23–24 September 2008, Rome, Italy). The proposed ToRs for this working group are reproduced under Appendix B. This issue should remain on the CoC agenda for the next intersession.

Compendium of GFCM decisions/harmonization of fishery-related legislation in the GFCM area of competence

7. At its sixth session, the CoC welcomed the updated Compendium of GFCM decisions. The GFCM Secretariat has reviewed this document during the intersession while including decisions adopted by the Commission at its thirty-sixth session. In the informative document

relating to the Compendium of GFCM decisions (GFCM:CoC7/2013/Inf.5) two issues have been underlined. It is proposed that, in view of the adoption of the revised compendium, the Committee take action with regard to the “Other Decisions” category and selected ICCAT recommendations endorsed by GFCM. In addition, the GFCM Secretariat has prepared an informative document concerning the harmonization of fishery-related legislations in the GFCM area of competence (GFCM:CoC7/2013/Inf.9). Under the LaMed project, it has been noted that a programmatic approach to national legislations in the Mediterranean and Black Sea countries could favour harmonization, with particular regard to the implementation of GFCM recommendations. This would require considering actions such as the regular collection of national legislations and the creation of an online database that could also incorporate the e-compendium. To this end, it is proposed to establish a working group on legislations and the Compendium of GFCM decisions whose tentative ToRs are reproduced under Appendix B. This issue should remain on the CoC agenda for the next intersession.

PRELIMINARY WORK PLAN RELATING TO COC INTERSESSIONAL ACTIVITIES ENVISAGED FOR 2013–2014

8. The activities listed below are proposed to be addressed by the CoC during the 2013–2014 intersession (this list does not preclude any other activity that could be proposed at the seventh session of CoC):

- Continue liaising with the FAO in connection with the FAO Global Record;
- Address possible cases of non-compliance according to Recommendation GFCM/34/2010/3;
- Organise a working group on VMS and related control systems in the GFCM Area (this will be possibly done within the remit of the GFCM Framework Programme);
- Organise a working group on legislations and the Compendium of GFCM decisions (this will be possibly done within the remit of the GFCM Framework Programme);

9. In light of the above proposed activities, the below list of meetings is for consideration of CoC:

Meeting	Place/Date
Working group on VMS and related control systems in the GFCM Area	TBD Second half of 2013
Working group on legislations and the Compendium of GFCM decisions	TBD Second half of 2013
8th session of the Compliance Committee (1-2 days)	TBD First half of 2014

SUGGESTED ACTION BY THE COMMITTEE

10. The Committee is invited to take action with regard to compliance and effective implementation of GFCM recommendations, including by addressing possible cases of non-compliance according to Recommendation GFCM/34/2010/3. Furthermore, the Committee is invited to consider the activities proposed for the period 2013–2014 – and may wish, as appropriate, to identify necessary inputs to support activities as well as to specify, where relevant, the expected timeframe and outputs – and to review the priorities outlined in this document with related budgetary implications.

Appendix A

DRAFT MODEL LETTERS ADDRESSING CASES OF NON-COMPLIANCE**Model letter for the identification of GFCM Members in accordance with Recommendation GFCM/34/2010/3**

Excellency,

Please allow me, at the outset, to express my sincere appreciation for your Government's continuing commitment in supporting the General Fisheries Commission for the Mediterranean (GFCM).

I have the pleasure to recall with this letter the scope of Recommendation GFCM/34/2010/3 "Concerning the identification of non-compliance", which was adopted by the Commission at its thirty-fourth session. According to its provisions the GFCM, through its Compliance Committee, is to ensure that recommendations in force are correctly implemented and transposed into national legislations in accordance with Articles III. 1(b) and V of the GFCM Agreement.

Unless there have been omissions or mistakes, I would hereby draw your attention on the following information concerning the status of GFCM recommendations in your country:

[TEXT WILL BE PROVIDED WITH REGARD TO SPECIFIC GFCM RECOMMENDATIONS AND THE STATUS OF COMPLIANCE BY THE MEMBER ADDRESSED BY THE LETTER]

In consideration of the above information, I would invite you to report before DD/MM/YYYY to the GFCM Secretariat on (i) any possible constraint which has hampered the correct implementation of the listed recommendations and (ii) any other matter that could be taken into account by the Commission, through its Compliance Committee, in reviewing compliance by your Government with listed recommendations in accordance with the process in recommendation GFCM/34/2010/3.

I would be pleased to provide any further information or clarification on this issue which you may require.

Please accept the assurances of my highest consideration,

**Model letter for the identification of non-Members in accordance with Recommendation
GFCM/34/2010/3**

Excellency,

Please allow me, at the outset, to express my sincere appreciation to the Government of [XXXX].

I have the pleasure to recall with this letter the scope of recommendation GFCM/34/2010/3 “Concerning the identification of non-compliance”, which was adopted by the Commission at its thirty-fourth session. According to its provisions the GFCM, through its Compliance Committee, is to ensure that recommendations in force are correctly implemented and transposed into national legislations in accordance with Articles III. 1(b) and V of the GFCM Agreement. At the Thirtieth Session of the General Fisheries Commission for the Mediterranean, Recommendation GFCM/30/2006/5 “Criteria for obtaining the status of Cooperating non-Contracting Party in the GFCM Area” was adopted. This recommendation invites States fishing in the Mediterranean, the Black Sea and connecting waters to become “Cooperating non-Contracting Parties” of the GFCM. This status identifies States which voluntarily fishes in conformity with the conservation and management measures adopted by the GFCM. Your government has presently not applied to obtain such a status and it is therefore a non-Member of the GFCM.

Customary international law, as reflected in Article 8 of the “United Nations 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” (New York, 1995), recognizes that States have a duty to cooperate to the conservation of marine living resources, including through existing regional fisheries management organizations (RFMOs).

In Article 8(4) of this agreement it is further stated that:

“Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply”.

Consistent with this provision, and bearing in mind that the GFCM is the competent RFMO for the Mediterranean and the Black Sea, all States fishing in this area are expected to abide by recommendations in place, as adopted at the annual sessions of the GFCM (a full list is available online at: www.gfcm.org).

In order to clarify whether or not and to what extent your government is engaged in fishing activities in the Mediterranean and the Black Sea, I would be pleased if you could kindly consider attending the XXth Session of the Commission (DD/MM/YYYY) where cases of non-compliance with recommendations in place will be identified and possible actions against those that fish in a manner diminishing their effectiveness will be discussed. Furthermore, consistent with the degree of engagement of your government in fishing activities in the Mediterranean and the Black Sea, I would invite you to consider to become a GFCM Member or to attain a “Cooperating non-Contracting Party” status.

I would be pleased to provide any further information or clarification on this issue which you may require.

Please accept the assurances of my highest consideration,

Appendix B**DRAFT TERMS OF REFERENCE OF SELECTED MEETINGS/WORKING GROUPS WITHIN COC****A. ToRs for a Working group on VMS and related control systems in the GFCM Area**

- identify means to facilitate the implementation of Rec. GFCM/33/2009/07, including in relation to the transmission of up-to-date and accurate information on the GFCM Authorized Vessel List;
- provide for a platform to share information on mechanisms and experiences concerning VMS, where existing, as established by other GFCM Members;
- evaluate administrative, technical and legal constraints relating to control systems, including VMS;
- consider possible revisions to Rec. GFCM/33/2009/07;
- assess measures and actions adopted by other RFMOs with respect to MCS;
- examine whether a centralized VMS system should be established within GFCM and, if so, how;
- study recent developments concerning other MCS tools that could be used in the GFCM context;
- ascertain requirements for the promotion of regional/sub-regional projects on the implementation of control systems, including VMS;
- make proposals for operationalizing the “Guidelines for a technical cooperation programme in the monitoring of fishing vessels in the GFCM Area of competence”, including by providing technical assistance to strengthen MCS in GFCM Members - particularly developing coastal States - such as the testing of potential control tools alternative to VMS (e.g. AIS, mobile phones, GIS, etc.).

B. ToRs for a Working group on legislations and the Compendium of GFCM decisions

- means to collect, including through ad hoc questionnaires to be prepared and circulated among national experts, most updated national legislations, regulations and amendments of the legal texts in force on fisheries and the law of the sea, as enacted by GFCM Members and non-Members;
- methodology to be followed to update previous comparative studies prepared by the GFCM on national legislations, including tables and lists, on the basis of information collected under bullet point 1;
- lists of ratifications of most relevant international and regional instruments in the domain of fisheries and the law of the sea to assess the degree of participation by GFCM Members and non-Members to be included in the updated comparative table;
- identification of experts on national legislations which would interact with the GFCM Secretariat in order to ensure that information collected under bullet point 1 are properly validated;
- liaison with the FAO Legal Office and FAO Regional Projects in carrying out above activities as well as in facilitating the translation of information collected under bullet point 1 in GFCM languages, including a working translation into English;
- establishment and maintenance, possible in close cooperation with the FAO Legal Office and FAO Regional Projects, of a network of experts on national legislations who will regularly provide updates on legal developments;
- set up of an electronic database to be held, maintained and progressively updated by the GFCM Secretariat with the support of national experts which could be merged with the e-compendium of GFCM decisions as a tool to improve the assessment of compliance.