



**GENERAL FISHERIES COMMISSION
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COMMISSION GÉNÉRALE DES PÊCHES
POUR LA MÉDITERRANÉE**



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Harmonization of fisheries legislations in the GFCM Area of Competence

BACKGROUND

1. Since its very foundation the GFCM has given great importance to legal aspects related to fisheries and the law of the sea, as relevant to the work of the Commission. At the 25th Session of the Commission (Malta, 2000) it was deemed appropriate to include legal studies and reviews as working documents of the Commission so that, among others, GFCM Members could take stock of progress made in the implementation of GFCM recommendations. Therefore, although the desired outcome of these studies was to collect and make available information related to the existing legal frameworks at national level in the GFCM Area, the purpose of facilitating harmonization in the implementation of GFCM recommendations was primary.

2. To this end, and following the entry into force of the third amendment of the GFCM Agreement in 2004, a comparative legal study supported by the FAO Legal Office and the FAO's Fish Code Project was drafted. This study was published in 2005 under the GFCM Studies and Reviews series and received widespread dissemination.¹ It focused on three main areas: (i) the access regimes to fisheries resources, (ii) the management of fishing effort and fishing capacity and (iii) the monitoring, control and surveillance of fishing activities. After the study was presented, the GFCM advised that a regular monitoring of existing legal frameworks to be pursued through a network of national experts. This implied the update of the study with information provided to the GFCM Secretariat on any new law or regulation in the domain of fisheries and the law of the sea. As new developments mainly related to rising issues and new topics, a sectoral approach was adopted by the GFCM. Harmonization could be furthered according to the priorities identified by the Commissions under its annual work-plans.

3. To date, legal studies have been drafted by the GFCM on issues such as port State measures, Vessel Monitoring System and recreational fisheries. Other issues of growing interest have been identified on ad hoc basis, mainly in connection with selected GFCM workshops and meetings on dedicated subjects (i.e. artificial reefs, jellyfish blooming, by-

¹ See Cacaud, P., Fisheries laws and regulations in the Mediterranean: a comparative study. *Studies and Reviews*. General Fisheries Commission for the Mediterranean No. 75 Rome, FAO. 2005. 40 p. Available at: <http://www.fao.org/docrep/008/y5880e/y5880e00.htm>

catch and discard, red coral, etc.). The need to collect legal information relating to these subjects was often underlined. As a response to this sectoral collection of legal information, the LaMed project was launched in 2010 by the GFCM Secretariat. Its thrust was to update information in the 2005 study thus bringing about a holistic approach to legislation related issues while at the same time broadening its scope so to encompass all new legal frameworks on fisheries and the law of the sea in the GFCM Competence Area.

THE LAMED PROJECT (ONGOING)

4. The methodology adopted by the LaMed project, which is still on-going, mainly relied on census: through an ad hoc questionnaire, conceived to collect updated information from both Members and non-Members, national authorities were directly involved in the process. The main areas identified in the questionnaire were: (i) access regimes to fisheries resources; (ii) conservation and management measures; (iii) monitoring, control and surveillance and (iv) enforcement procedures and sanctions. Particular emphasis has been put on the implementation of GFCM Recommendations while evaluating existing harmonization gaps.

5. Responses to the questionnaires were presented during an expert meeting on legislation in the Mediterranean and Black Sea held in Beirut, in October 2011, which was convened to validate the information collected and to make recommendations on steps forward. The expert meeting highlighted the fact that, as far as the GFCM body of laws is concerned; several GFCM recommendations still need to be fully implemented by GFCM Members. This was true especially regarding the monitoring, control and surveillance area, whereas a significant number of national measures have been adopted by GFCM Members in connection with conservation and management issues.

6. As the final output from the whole LaMed project was the elaboration of a reference publication building upon the 2005 study, following the expert meeting the initial priorities called for a revision. As a matter of fact, in Beirut the need for a user-friendly database encompassing all national legislations in all the GFCM official languages was recognized as a complementary activity to the publication. For this purpose, participants recommended that GFCM Members should regularly provide the GFCM Secretariat with updated texts of their national legislations, possibly accompanied by a working translation into English. This information could be then made available on line, like in the case of the e-compendium of GFCM decisions. Such a tool, would significantly empower harmonization efforts. Recently, the need for harmonization throughout the GFCM Area has been explicitly recognized by the GFCM Task Force on the modernization of the GFCM legal and institutional framework.

7. In addition to a technical effort from the GFCM Secretariat, which should proceed in creating the database on national legislations, collaboration with the FAO Legal Office would be necessary. FAO Regional Projects, which often carry out legal survey in the countries they assist, could also be involved in this undertaking. For the time being, FAO EastMed has already indicated its willingness to cooperate. A joint course of action to make this possible (e.g. standard templates would have to be prepared, circulated and then officially validated by national authorities or designated experts before being added in the database) has to be first agreed upon though. The following issues would deserve to be addressed:

- means to collect, including through ad hoc questionnaires to be prepared and circulated among national experts, most of 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;
- Terminology.

SUGGESTED ACTION BY THE COMMITTEE

8. Given the competence of the CoC in overseeing matters pertaining to the GFCM Compendium as well as the implementation by GFCM Members of recommendations in place, the establishment of a specialized working group on legislations and the GFCM Compendium should be considered.