



**GENERAL FISHERIES COMMISSION
FOR THE MEDITERRANEAN
COMMISSION GÉNÉRALE DES PÊCHES
POUR LA MÉDITERRANÉE**



GFCM Task Force Discussion Forum Questionnaire

1. GFCM general objectives

Background information - Question 1.1:

The review of performances of the GFCM, inter alia, concluded that: “the GFCM Agreement is significantly weak and outdated, and does not incorporate a wide range of obligations or principles contained in international fisheries instruments. It incorporates FAO standards for Article XIV bodies but falls far short of the standards in constitutive instruments of other RFMOs, particularly those established in the past fifteen years. The failure of the Agreement to refer to modern fisheries objectives and principles has not prevented the Commission from incorporating such principles in its work programme [...] However, the language of the Agreement is imprecise and confusing, it does not contain any clear up-to-date definitions, objectives or functions, there is little or no legal basis for a range of vitally important areas”.

Users, in departing from these considerations of the review of performances of the GFCM, are asked to indicate what kind of objectives could be pursued in the GFCM area that are not envisaged in the Agreement establishing the GFCM and/or in the work programme of the Commission.

Question 1.1:

Should GFCM objectives been reconsidered for the Commission to be able to tackle new issues? In particular, should environmental objectives be among those of the GFCM to improve governance of fisheries in the GFCM area? List relevant objectives.

Background information - Question 1.2:

Some of those terms identified in the ToRs of the Task Force, namely “(1) sustainable exploitation both in terms of long-term conservation and optimum utilisation, (2) sustainable aquaculture production, (3) precautionary approach, (4) ecosystem approach to fisheries management and aquaculture” can be found in pre-existing instruments, including international fisheries instruments and the constitutive agreements of other RFMOs. This would be the case, for instance, of “precautionary approach” (see principle 15 of the Rio Declaration on Environment and Development, that can be found under “Useful Documents”). Some other terms identified in the Terms of Reference of the Task Force on the other hand, have rather developed from the practice of the works of RFMOs. This would be the case, for instance, of “sustainable exploitation both in terms of long-term conservation and optimum utilisation”.

Users are invited to indicate if they think that those terms identified in the Terms of Reference of the Task Force should be qualified solely on the basis of pre-existing instruments (possibly specifying those instruments that they consider of relevance for the purpose) and to what extent such a course of action would take into account the specificities of the GFCM. In addition to the qualification of the terms, it might be necessary to consider how to assess the efficiency of policies that are related to them. In this respect, users should indicate what kind of indicators could be developed (e.g. biological, environmental, social, etc.).

Question 1.2:

How should the Task Force address the qualification of the terms identified in the ToRs of the Task Force, (see background information), and what kind of indicators should be developed to assess policies and strategies relating to these terms?

Background information - Question 1.3:

The problem of interactions among capture fisheries, aquaculture and other human activities in marine areas could be particularly acute in some areas of the Mediterranean Sea and the Black Sea. Discussions on integrated management of marine space, and more generally speaking discussions on marine spatial planning, are thus unavoidable.

At this preliminary stage of discussions, users are welcome to express their views on how future decision-making could contribute to an increasingly integrated management of the GFCM area.

Question 1.3:

Could the GFCM mandate be strengthened to improve the management framework relating to interactions among capture fisheries, aquaculture and other human activities in the GFCM area? Could the GFCM address marine spatial planning considerations?

2. Conservation issues

Background information - Question 2.1:

The panel that reviewed the performances of the GFCM reported that: “most of the assessments units used by the SAC to provide management advice are based on geographical sub-areas (GSAs). It is generally not known if these assessment units actually correspond to meaningful biological units. Results from stock assessments that are not based on meaningful biological units may be misleading. The SAC should give high priority to the identification of meaningful biological units and provide advice only for those assessments units that are known to correspond to meaningful biological units.”

Users should indicate if the use of assessment units for the GFCM area can prove adequate to accommodate adaptive fisheries management measures.

Question 2.1:

According to you, are the current geographical sub-regions (GSAs) of the GFCM area appropriate for data collection and for stock assessment supporting management advice in the GFCM context? If not, please provide any alternatives/indications which could be considered.

Background information - question 2.2:

The governance of the Mediterranean and the Black Sea is proving increasingly challenging. Admittedly, the GFCM area is a crowded one as the variety of stocks and species attracts many fishermen. Different stocks and species require specific attention though,

including the collection of scientific and biological information at an initial stage to inform decision-making at a subsequent stage. In the GFCM area, it should be recalled that ICCAT has been directly involved in dealing with large pelagic species.

Thus, it might be worth asking users if they think it could be appropriate within the remit of the GFCM to focus on particular stocks and species that might be more in need of conservation in view of the adoption of appropriate measures in the future.

Question 2.2:

What fish stocks would deserve particular conservative efforts in the short/medium/long term by the GFCM and why?

Background information - Question 2.3:

The Mediterranean and Black Sea represent a specific type of LME (Large Marine Ecosystem), namely that of a semi-enclosed area. In 2008 UNEP has published its "Large Marine Ecosystem Report: A perspective on changing conditions in LMEs of the world's Regional Seas" (see under the "Useful Documents" section) where the Mediterranean Sea and the Black Sea are also addressed. The concept of LME as put forth in this report, but more generally speaking as of its very emergence after UNCED, is relevant both for marine living resources and for the environment.

In light of the fact that LME conservation would consequently entail actions aimed at halting environmental problems together with actions aimed at ensuring the conservation of fisheries, users are invited to elaborate views on whether or not any such endeavour should and could be pursued within the framework of the GFCM.

Question 2.3:

How could the applicability of the concept of LME (Large Marine Ecosystem) contribute to improve ecosystem based management and to enhance collaborative approaches to fisheries resources in the GFCM area?

3. Management issues

Background information - Question 3.1:

According to Article III(b)(i) of the GFCM Agreement, the Commission can formulate appropriate measures for the conservation and rational management of living marine resources, including: "regulating the amount of total catch and fishing effort and their allocation among Members".

In light of the fact that GFCM fisheries have been managed by fishing effort control, users should explain if it would be appropriate for the GFCM to manage fisheries under its mandate through fishing allocations and opportunities, including how that could be done.

Question 3.1:

Do you think that initiating a regional allocation process to regulate the amount of total catch and fishing effort in the GFCM area is required? If yes, what kind of approaches should be taken for the GFCM to make progress on this matter?

Background information - Question 3.2:

Given the increasing interdependence among States at both international and regional level, a focus on technical assistance could underpin the implementation of the GFCM body of law in relation to management issues by States Parties. In this connection, it is worth noting

that whereas most of the international instruments related to the law of the sea and fisheries concluded since UNCED contain provisions for this purpose, the GFCM agreement does not.

Users should thus indicate if a focus on technical assistance would contribute to a better management of GFCM fisheries and what kind of cooperation frameworks could be envisaged/what kind of areas could benefit from technical assistance (e.g. MCS).

Question 3.2:

Could technical assistance mechanisms contribute to improve the management of fisheries in the GFCM area? If yes, what mechanisms could be envisaged to provide technical assistance to States Parties?

4. Specific aspects related to aquaculture

Background information - Question 4.1:

Aquaculture already contributes to significant shares of the fisheries market in GFCM Members, including in those that are developing States. However, particularly for these States, it is important to ensure that clear sustainability criteria are defined so that the further promotion of aquaculture markets at national level can occur.

Users should express their views on actions, including regional plans, that could help promote sustainability in aquaculture for the benefit of national markets and possibly identify those problems to sustainability that have a negative impact on national markets (e.g. unregulated aquaculture).

Question 4.1:

Do you think that the mandate of the GFCM could be broadened in a manner that allows States Parties to pursue sustainable aquaculture in the GFCM area more effectively?

Background information - Question 4.2:

The role of the CAQ has become more important over recent years as demonstrated by the works of this body and the increasing attention paid to these works by GFCM Members. In the last report of the United Nations Informal Consultative Process on Oceans and the Law of the Sea of June 2011 (see under "Useful Documents") it is indicated that States noted the following: "there was a need to increase national and international efforts to address aquaculture, including through data collection, best practices and certification guidelines". Since this report is expected to feed into the preparation of the so called "Rio + 20" meeting that will be held in June 2012, there is the possibility that States will agree on a stronger political commitment on the regulation of aquaculture in the near future.

Bearing in mind the recommendations by the Panel reviewing the findings of the GFCM ("the function and organization of the CAQ, CMWG and WGs should be reviewed with a view to clarifying their functions, organization and procedures in order to ensure the most effective outcomes"), users should make suggestions as to how equipping the CAQ to respond to both present and future challenges.

Question 4.2:

In light of the growing importance of the aquaculture sector and of the ongoing international focus on its regulation, how is it possible to ensure that the works by the CAQ will adequately respond to the needs of States Parties?

5. Compliance and Enforcement

Background information - Question 5.1:

In the review of performances of the GFCM it was noted that: “there are no detailed provisions on the follow-up to infringements in the GFCM Agreement, unlike the instruments of other RFMOs”.

Recalling that the GFCM has been committing to halt IUU fishing, users should provide indications as to the appropriateness of following-up on infringements of GFCM recommendations based on their experience in the field of fisheries.

Question 5.1:

How should the GFCM follow up on infringements when instances of non compliance are reported? Please indicate what kind of actions/measures/tools could prove particularly effective to improve compliance and enforcement.

Background information - Question 5.2:

The Panel reviewing the performances of GFCM found out that: “there are a number of areas which require review and action, including the implementation of flag State duties, compliance with the Recommendation on port State measures, uneven compliance and enforcement by Members of GFCM Recommendations and decisions in general and the failure of Members to provide required information”.

Users should identify what actions are more urgent (e.g. to improve flag State duties, to strengthen port State measures, etc.) for the GFCM in the domain of compliance and enforcement.

Question 5.2:

Please identify priorities to improve compliance and enforcement with relevant GFCM conservation and management measures, including in relation to flag State and port State responsibilities (e.g. boarding, inspections, etc.).

Background information - Question 5.3:

In accordance with the FAO IPOA-IUU (see under section "Useful Documents") RFMOs can adopt various measures to halt IUU fishing, including market-related measures against both States Parties and non-Members that undermine conservation and management measures in place. Several RFMOs have adopted these measures, including ICCAT.

Users should reflect on the need for market-related measures for the GFCM, some of which could consist in the transposition of ICCAT relevant recommendations into the body of law of the GFCM, consequently specifying if they agree with the panel that reviewed GFCM performances (according to the Panel, “the GFCM has not adopted market-related measures. Although marketing is a concern for aquaculture, the diverse characteristics of the Region and its fisheries would not at present make such a measure practicable”). If users agree with the panel, they should indicate if they consider that strengthening those measures already adopted by the GFCM to halt IUU fishing (e.g. port State measures) can be an effective alternative to market-related measures.

Question 5.3:

Could the adoption of market-related measures in relation to IUU fishing by States Parties and non-Members constitute an appropriate follow up action to elicit compliance? If Y, propose actions/mechanisms that could be worthy of consideration.

Background information - Question 5.4:

Having considered that some conflicts might occur on occasional basis between States Parties while undertaking fishing activities, and given the role of the Compliance Committee at present, users should comment on whether or not this committee could represent a viable option for States Parties concerned to address the abovementioned conflicts.

Question 5.4:

Do you think that in the event of conflicts in connection with fishing activities the GFCM, particularly through its Compliance Committee, could have a role to perform so to assist relevant States Parties?

Background information - Question 5.5:

As it was noted by the GFCM Ad hoc Working Group of the Compliance Committee of the GFCM on VMS as a MCS tool: "RFMOs have taken a variety of approaches in implementing a VMS to meet their needs and circumstances. Often adopting a phased approach is advisable which will allow issues to be addressed on an as needed basis. Providing reports to the Secretariat for various purposes, such as scientific and administrative, allows collective solutions to be discussed and maximizes the utility of VMS data. Expectations should be realistic as a break in period to sort out problems will likely occur." The GFCM is currently considering matters pertaining to VMS.

Nonetheless, and without prejudice to developments that will occur within the GFCM, users are invited to make proposals and/or otherwise express their ideas as to how improving reliance on VMS within the GFCM area. In this regard, it might be worth for users considering the relevance of ICCAT and its VMS system and whether or not there could be scope for cooperation between the GFCM and ICCAT in relation to VMS.

Question 5.5:

Could a strengthening of the use of VMS prove to be a useful tool in the fight against IUU fishing? Please suggest in particular how the use of VMS in support of MCS activities could be improved.

6. Financial and Administrative issues

Question 6.1:

Based on discussions occurred at the 35th Session of the GFCM, do you think it would be appropriate to reconsider financial regulations so to address the current scale of contributions?

Background information - Question 6.2:

The GFCM has been increasingly confronted with new challenging issues and was requested by States Parties to consequently broaden the range of its activities to respond to challenges to sustainable fisheries and aquaculture. It is also evident that the ongoing economical crisis has already resulted in bringing about unprecedented financial constraints. This has in turn increased the reliance by the GFCM on extra-budgetary resources as a means to continue performing its duties without necessarily having an excessive financial burden on States Parties. Ultimately, the review of performances of the GFCM has invited States Parties to explore funding mechanisms to support extra-budgetary activities.

Users should convey ideas, also thinking outside the box, that could be considered in the future for the GFCM to secure additional resources in support of its activities.

Question 6.2:

What funding mechanisms should be considered to support GFCM activities particularly for extra-budgetary ones? Could GFCM participate through partnerships, with a leading role, to relevant international/regional projects/programmes/initiatives?

7. Decision-making

Background information - Question 7.1:

The GFCM has become increasingly reliant on its committees in recent years. This trend will continue in the future to the extent that the GFCM might need more flexible built-in procedures to inform its decision-making, including in relation to the reporting relationship between the Commission and its committees. Users are requested to provide their views on the possibility for GFCM committees to be more directly involved in the decision-making process.

Question 7.1:

Do you think that GFCM committees (especially SAC and CAQ), could perform decision-making functions in a more autonomous/rapid manner without necessarily relying on annual GFCM Sessions? Could this lead to biannual meetings of the Commission?

Background information - Question 7.2:

Under Rule XII of Rules of Procedure of the GFCM it is not specifically envisaged that NGOs and stakeholders, including components of the civil society, can participate to relevant GFCM meetings. This limits in turn possibility of interaction with said actors and might be ultimately perceived as a lack of transparency.

Bearing in mind the finding of the Panel reviewing the performances of the GFCM (“The Agreement and Rules of Procedure should be updated to include contemporary provisions on observers, in line with international fisheries instruments”), users should express their opinion on whether or not it would be beneficial for the GFCM to facilitate the involvement of NGOs/stakeholders/civil society and to what extent they should be involved.

Question 7.2:

Should the participation by observers to relevant GFCM Sessions and, more generally speaking, to the work of the Commission be further enhanced?

8. Dispute settlement

Background information - Question 8.1:

The Panel reviewing the performances of the GFCM concluded that: “the dispute settlement provision in the GFCM Agreement should be amended to reflect the requirements of the UN Fish Stocks Agreement”. In fact, several RFMOs have provisions in their constitutive agreements relating to the potential settlement of disputes. In the absence of such provisions Part VIII of the UN Fish Stocks Agreement (see under "Useful Documents") could apply. Arguably, even provisions in the UN Convention on the Law of the Sea on the

settlement of disputes could apply (see under "Useful Documents"). Still, there is not a perfect match between GFCM membership and that to these two treaties with regard to States Parties.

As a result, users should illustrate what solution would be better in their opinion to address dispute settlement within the GFCM, including the possibility of endowing the Compliance Committee to work as a medium to prevent disputes to arise and to supervise the conclusion of arbitral agreements in case it is not possible to prevent disputes to arise.

Question 8.1:

In the event of disputes on the application/interpretation of the GFCM Agreement, could dispute settlement provisions in Part VIII of UN Fish Stocks Agreement represent a viable solution? Or is article XVII of the GFCM Agreement prove adequate?

9. International Cooperation and interaction with non-Members

Background information - Question 9.1:

According to the Panel reviewing the performances of the GFCM: "cooperation with non-members could be further promoted, including with non-member Black Sea States". Regardless of GFCM Recommendation GFCM/30/2006/5 of 2006 on "Criteria for obtaining the status of cooperation non-contracting party in the GFCM area", the Compliance Committee of the GFCM has not addressed the issue of cooperation with non-Members in accordance with the current standards of other RFMOs.

Since the GFCM recommendation is yet to follow up on the said recommendation, users should suggest what kind of actions might be taken by the Commission if a non-Member meets the criteria for obtaining cooperating status, and whether or not they think that there are non-Members that could be currently considered eligible to obtain such status.

Question 9.1:

Should the GFCM take steps so that cooperating status can be granted to non-Members? If Y, how? And what non-Members could benefit from such a status?

Background information - Question 9.2:

In June 2012 the so called "Rio + 20" meeting will be held, twenty years after UNCED. This meeting will likely herald significant changes to improve environmental governance, including in relation to marine living resources. Preparatory documents for "Rio + 20" drafted so far highlight that to strengthen environmental governance it will be more important to ensure better inter-institutional cooperation. In the case of the GFCM, a few instances of international organizations whose works and activities that might impact on the GFCM easily come to mind: UNEP-MAP, ACCOBAMS, CITES, etc. Some of these organizations have been already cooperating with the GFCM, some others not. In addition, commitments of significant importance are taken by States at global level through the UN General Assembly. Suffices to mention the resolution on sustainable fisheries that is expected to be adopted later this year and which will contain provisions on bottom trawling and protection of vulnerable marine ecosystems. These commitments are the result of discussions that take place within the remit of the UN General Assembly on an annual basis. Several RFMOs (e.g. ICCAT, NEAFC, NAFO) are known to attend these meetings which inform their policy making.

Having considered that in the review of performances of the GFCM attention is given only to GFCM cooperation with other RFMOs, users are invited to explain if international and regional cooperation could be strengthened also vis-à-vis other international organizations

and what means could best ensure that the GFCM is kept abreast of relevant developments that occur therein (e.g. signing memoranda of understanding).

Question 9.2:

Should the GFCM participate more to the works/activities of other international organizations which are relevant to the goals of the GFCM? If Y, should the GFCM consider findings/recommendations by these organizations and how (e.g. MoU)?

10. Broad GFCM Administrative Arrangements

No questions provided.

11. Any Other Issues

Please list those issues that are not addressed at present in the GFCM Discussion Forum and/or by the ToRs of the Task Force, which you deem of importance for the improvement and the modernization of the GFCM.