

# GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN



# COMMISSION GÉNÉRALE DES PÊCHES POUR LA MÉDITERRANÉE

## GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

# TASK FORCE TO IMPROVE AND MODERNIZE THE LEGAL AND INSTITUTIONAL FRAMEWORK OF GFCM

FIRST SUB-REGIONAL MEETING OF THE TASK FORCE FOR THE WESTERN AND CENTRAL MEDITERRANEAN SUB-REGIONS

RABAT, MOROCCO, 13<sup>TH</sup> -14<sup>TH</sup> FEBRUARY 2012

WORKING DOCUMENT WITH GENERAL ORIENTATIONS

## Opening of the meeting

The meeting of the Task Force for the Western and Central Mediterranean sub-regions was held in Rabat, Morocco, on 12-13 February 2012. The meeting was attended by 35 participants from Algeria, EU, France, Italy, Libya, Malta, Monaco, Morocco, Spain and Tunisia, including representatives of GFCM Bureau, GFCM Secretariat and FAO regional projects. The list of participants and the agenda of the meeting are attached hereto under Annex A and Annex B respectively.

The meeting was called to order by Mr Jean-Luc Bernard, FAO representative ad interim in Morocco, Mr Stefano Cataudella, President of GFCM Bureau and Mr Abdellah Srour, GFCM Executive Secretary. In their interventions, they warmly thanked Morocco for hosting the meeting as well as for the excellent organization, they noted the importance that FAO attaches to those bodies established under Article XIV of its Constitution and they acknowledged the progress that has been made thus far by GFCM in improving and modernizing its legal and institutional framework through the Task Force.

Mr Abdelouahed Benabbou, Director of Cooperation and Legal Affairs of the Fisheries Department of Morocco, welcomed the participants and expressed his satisfaction for having the opportunity to host the first sub-regional meeting of the Task Force in Rabat. Also, he recalled that Morocco has always been supportive of GFCM and that his country is now looking forward to actively contributing to the process of improvement and modernization of the Commission within the framework of the FAO Constitution.

## **General outcomes of the discussions**

The meeting acknowledged that the Task Force represents the first step of a new process in the domain of regional fisheries management organizations which aims at promoting a bottom up approach and which is ultimately expected to lead to the amendment of the GFCM Agreement and associated rules in order to enable GFCM to respond to the challenges brought about by the current status of fisheries and aquaculture in the Mediterranean and the Black Sea. The GFCM Executive Secretary clarified that consistent with its Terms of Reference - as reproduced in Appendix H of the Report of the 35<sup>th</sup> Session of the Commission - the Task Force is to provide all GFCM Members with the right to access all the discussions and debates relating to the improvement and modernization of the legal and institutional framework of GFCM. Consequently, he indicated that in order to allow all GFCM Members to contribute to the proceedings and to the consultation process of the Task Force before the conclusions of the work of the Task Force are validated, a set of general orientations emerged during the meeting would have been provided instead of a proper report.

The meeting concurred that contributions delivered would feed into a wider consultation process committed to involve all actors interested in the improvement and the modernization of GFCM legal and institutional framework, including but not limited to, through the GFCM Discussion Forum. In this regard, having noted that the Terms of Reference of the Task Force provided that the conclusions of the work by this instrument would have been presented three months before the 36<sup>th</sup> Session of the Commission, the meeting reviewed the work-plan of the Task Force in the following months. The GFCM Executive Secretary informed participants that three more sub-regional meetings will be held between March and April to address the Eastern Mediterranean, the Black Sea and the Adriatic sub-regions, respectively. Consequently, the consultation process will be closed right before the 36<sup>th</sup> Session of the Commission when a final meeting of the Task Force will be held (tentatively in May back to back with the 36<sup>th</sup> Session of the Commission). Any decision pertaining to the possible amendment of the GFCM Agreement will be then taken by the Commission at its 36<sup>th</sup> Session, on the basis also of the conclusions that will be reached by the Task Force and bearing in mind the difficulty inherent in this undertaking. It was also noted that some years might be necessary to improve and modernize GFCM legal and institutional framework, should the Commission decide at its 36<sup>th</sup> Session to launch an amendment procedure of the GFCM Agreement and associated rules.

Three presentations were delivered by GFCM Secretariat<sup>1</sup> which stressed in particular that the Terms of Reference of the Task Force endow this instrument with the responsibility of identifying the main elements necessary to assist the Commission in the consideration of the

<sup>1</sup> "The Task Force: background, objective, work programme", "Outcomes of the work of the Task Force thus far" and "Amendment Procedures: GFCM Agreement, Rules of Procedure and Financial Regulations".

necessary modifications to the GFCM Agreement and associated rules. Subsequently, delegates in attendance made declarations on the implementation of and compliance with GFCM body of law, including on existing constraints hampering said implementation and compliance. Extensive discussions followed under the topics below, which mirror the areas of intervention identified in the Terms of Reference of the Task Force. More precisely, the meeting noted the following general orientations:

## A. General GFCM Objectives

- The GFCM legal framework, with particular reference to the GFCM Agreement, has to reflect the complexity of the GFCM Area, where interactions among GFCM Members have developed into a common history and a common heritage, in order to ensure their preservation through dialogue and cooperation.
- GFCM is presently faced with many challenges that are the consequence of the current status of fisheries and aquaculture in its area of competence. Nonetheless, GFCM remains the most appropriate organization to ensure that both fisheries and aquaculture are addressed for the benefit of fishermen and the people involved in the fisheries and aquaculture sectors as well as to respond to the needs of the populations of GFCM Members.
- The peculiar traits of GFCM, compared to other RFMOs, are one of the main strengths of the Commission. The choice to include aquaculture in the work-plan of GFCM back in the 1980s has turned out to be advantageous. Aquaculture must hence be retained in the future as one of the main areas of intervention of GFCM, together with marine capture fisheries.
- Fisheries and aquaculture sectors are now dealing with "new generation" problems. Although the main bulk of GFCM activities should revolve around fisheries and aquaculture, there is a necessity to consider these two sectors against the background of maritime policy so to account also for concerns relating to environment, good diplomatic relations, food security, etc. GFCM should assist its Members in reconnecting the fragments which would lead to the development and the implementation of an integrated maritime policy.
- The identification of clear general objectives in the GFCM Agreement will in turn facilitate consent on areas of intervention for GFCM Members (e.g. conservation, compliance, etc.). In terms of form, the general objectives of GFCM have to be stated in the GFCM Agreement in a manner that long term conservation and optimum utilization can be strongly pursued.
- Although the GFCM Agreement should mainly focus, as it does at present, on promoting the
  development, conservation, rational management and best utilization of living marine
  resources, as well as the sustainable development of aquaculture, it would be advisable to
  take into account relevant environmental considerations (e.g. not those related to pollution

or marine traffic, rather those related to the impacts of fishing activities on marine ecosystems).

- Ecosystem approach to fisheries must be reflected in the GFCM Agreement. However, it has to be intended as a means to seek long term conservation rather than as an objective of GFCM.
- The mandate of international organizations having environmental goals should not conflict with that of GFCM. Nonetheless, to keep up with the modern approach to fisheries and aquaculture, the GFCM Agreement could be amended so as to include a provision that vests with the Commission the responsibility to enter into agreements for cooperation with relevant international organizations. Such action would adequately target some of those areas identified in the Terms of Reference of the Task Force under "International Cooperation and Interactions with non-Members" which might also call for an amendment of the GFCM Agreement.
- Principles enshrined in modern fisheries instruments that are universally recognized, including those in the FAO Code of Conduct, should be embodied in the GFCM Agreement.
- It would be advisable for the GFCM Agreement to strengthen the participation by stakeholders and civil society to the work of the Commission and its Committees.

## **B.** Conservation Issues

- Conservation issues, as well as management issues are core elements for GFCM. Hence, there is a need to decide how to tackle conservation issues to ensure that marine living resources in the GFCM Area are preserved. It would be useful to lay down, also for the benefit of the work of GFCM Scientific Advisory Committee (SAC), common indicators and reference points to enable GFCM Members to carry out joint actions based on scientific advice.
- The GFCM Agreement should clarify that conservation of marine living resources in the GFCM Area is an objective. As for the means, focus on species and zones, inter alia, would be necessary. SAC represents the best forum to bring about similar specifications.
- The need for specifications related to conservation should progressively emerge within GFCM, based on those priorities identified by the Commission. Shared and straddling stocks would deserve particular attention, though focus on other species should not be ruled out at face value.
- Pelagic and demersal species are experiencing a significant decline, although the work by SAC point to instances of recovery in some cases. The GFCM Agreement should empower the Commission to improve conservative efforts in relation to these species as well as to all species that are overexploited.

- The GFCM Agreement applies to all species in the GFCM Area. Whereas such a full encompassing approach would be worth retaining, specifications could be later agreed upon within the remit of SAC. Addressing all species via the GFCM Agreement will always allow the identification of target species, as necessary and needed. Also, consistent with the Ecosystem Approach to Fisheries, the link between species and ecosystems should be duly considered.
- Where another regional fisheries management organization exists which has a mandate over species that are found in the GFCM Area, the GFCM Agreement should ensure coordination between this organization and GFCM to the extent that there is no duplication of efforts but an exploitation of synergies.
- GFCM should provide for a common pool of expertise where GFCM Members share methodologies and build capacities to improve conservation of marine living resources. Focusing on shared and straddling stocks would be advisable in order to account for the needs of the fishermen.
- Conservation issues should be addressed by GFCM bearing in mind the varying capacities of GFCM Members and, in particular, the existence of a North-South gap. The GFCM Agreement should recognize the specificities of the GFCM Area and its sub-regions building upon the positive experience of FAO regional projects which have been providing technical assistance.
- Including environmental considerations in the general objectives of the GFCM Agreement would imply that protected species should be also addressed in the work of the Commission. Such a move would be in accordance with relevant decisions taken by FAO Committee on Fisheries where protected species have been addressed several times

## C. Management Issues

- Measures such as long term management plans are very important and have proven useful at national level in some GFCM Members. The GFCM Agreement should provide for the possibility of adopting these plans. These plans, together with environmental and biological analyses, should rely on results of further analyses to be carried out (e.g. socio-economic, market trends, etc.). A new committee could be hence established with the mandate of carrying out these analyses as well as to reinforce training activities to ensure that fisheries management directly involve fishermen. Sustainability has different dimensions and all of them have to be taken on board in developing long term management plans.
- Management actions should be conceived of by the GFCM Agreement as having a long term perspective. All existing tools and measures that can improve management should be available, consistent with an input-output angle and based on scientific advice.

- Long term management plans should have a local dimension. The role of the GFCM should be that of assisting its Members to the extent that the responsibility to implement the plans is national whereas the GFCM becomes the forum where common standards are agreed upon and lessons learnt are shared. Long term management plans could particularly help cooperation among GFCM Members in so far as tools are jointly identified by the Commission to put them in place. Whereas long term management plans should not be common, the framework under which they are launched is to be common.
- There should be a more direct connection between scientific advice given by SAC, other Committees to be possibly established, and management measures adopted by the Commission. An amendment of the GFCM Agreement could make up for the loss of scientific advice and ensure that management measures are adopted by the Commission. However, although the decision making process necessarily relies on the management (economic) and scientific component, it would be advisable that the GFCM Agreement refrains from giving SAC the power to adopt management measures.
- The GFCM Agreement would have to identify the best means to ensure that scientific advice from SAC and a socio-economic Committee to be possibly established informs the elaboration of management measures. In light of the link between management issues and another area identified in the Terms of Reference of the Task Force, namely "Decision-making", a useful option to consider in view of a possible amendment of the GFCM Agreement could be to study past methods of work of GFCM, consistent with the findings of the Panel that reviewed GFCM performances in point of the work of scientists vis-à-vis the decisions taken by the Commission.
- The GFCM should also rely on an efficient and shared information system. In this respect a data collection wide project could be put in place in order to feed long term management plans analyses.
- A mechanism might be envisaged (e.g. the establishment of management committee, the creation of a drafting committee, a more proactive mandate to the Secretariat to table proposals for the consideration of GFCM Members, etc.) to ensure that economic and scientific advice finds its way to the Sessions of the Commission so that GFCM Members can agree on management measures in a manner ensuring both that proper consideration is given to scientific advice and that the decision-making power of the Commission through GFCM Members is retained.

# D. Specific Aspects related to Aquaculture

• The aquaculture dimension is different from the marine capture fisheries dimension but it is nonetheless of paramount importance for GFCM. Interactions between aquaculture and marine capture fisheries should be duly considered whilst drafting a possible amendment of the GFCM Agreement.

- Sustainable aquaculture has to be retained among the general objectives of the GFCM Agreement so that there will be enough scope for GFCM to intervene on specific aspects related to aquaculture and to improve sustainability.
- Sustainability of aquaculture requires the development of indicators that take into account several aspects. This kind of activity should be carried out by the GFCM Committee on Aquaculture (CAQ) on the basis of relevant provisions that should be included in the GFCM Agreement.
- The different pace of development of aquaculture activities in the North and the South of the GFCM Area should be borne in mind and guide the work by CAQ.
- To enhance the aquaculture dimension in the GFCM Area, it would be particularly important that the GFCM Agreement identifies areas where common standards are needed (e.g. aquatic standards, trade standards, etc.). In alternative, the identification of these standards could be foreseen in the GFCM Agreement as a goal and their elaboration be demanded to CAQ.
- The structure of CAQ, and whether or not it is adequate, should be carefully considered so that any proposed amendment to the GFCM Agreement can further empower this committee. In this connection, it might be particularly worthy to reflect on the possibility of mandating CAQ with decision-making functions bearing in mind that CAQ, unlike SAC, is not a scientific committee proper. This might justify a different approach in terms of decision-making.
- Having considered the increasing growth of aquaculture in the GFCM Area, the spatial planning of aquaculture activities requires attention to the extent that it could be mentioned in the GFCM Agreement.
- Aquaculture should be conceived of in the GFCM Agreement as an activity having a public dimension in light of its interactions not only with marine capture fisheries, but also with the environment and the market. In this connection, lagoons would deserve special attention since they are public property and provide an habitat to for fish (nurseries) as well as for birds. GFCM could provide guidance as to the way lagoons should be addressed at national level.
- The development of aquaculture in the GFCM Area is to be strongly supported given its importance for food supply, for diminish fishing effort and for creating jobs. However, there are nuances not only in relation to species that should be farmed and their possible negative impacts, but most importantly in terms of definitions.
- The GFCM Agreement, consistent with the FAO Code of Conduct, should provide for the responsible development of aquaculture, including culture based fisheries. New orientations by the international community toward sustainable development, the improvement of

SIPAM and other emerging trends which are under consideration at CAQ, could also contribute significantly to the amendment of the GFCM agreement.

- The problem of market in the GFCM Area, including competition related issues, needs to be tackled. CAQ should provide a clear snapshot of the strategic position of the GFCM Area compared to the rest of the world to improve the competitiveness of aquaculture products by GFCM Members on the global market. For CAQ to focus on this it might be advisable to spell out this problem in the GFCM Agreement.
- Extensive aquaculture could pave the way for the development of aquaculture in the GFCM Area, particularly in the Southern Mediterranean. Interventions by GFCM could be foreseen in the future to this end. Extensive production will inevitably entail a maritime policy that also includes spatial planning and culture based fisheries.

## E. Compliance and Enforcement

- The GFCM Agreement must envisage a policy aiming at improving compliance and enforcement or conservation and management efforts will be to no avail. Tools to address instances of non compliance should be agreed upon by the Commission whereas GFCM Members should commit to implement them.
- Definitions for and relationship with cooperating non members and non members should be spelled out in the GFCM Agreement. Other elements relating to compliance and enforcement that should found their way into the GFCM Agreement, some of which are presently featured in various GFCM recommendations and resolutions, include flag State measures, port State measures, joint inspection schemes, VMS and lists of fishing vessels, both positive and negative.
- For a monitoring, control and surveillance system to be effective, a sound legal basis is needed for GFCM Members to take any necessary action, bearing in mind the quick pace of evolution of rules in this domain. Such legal basis would have to be enshrined in the GFCM Agreement.
- Compliance and enforcement initiatives could prove inefficient without appropriate assistance and training at national level. What lies behind recommendations adopted by GFCM has to be known by fishermen and they have to be instructed to ensure the implementation of management measures. Any proposed amendment to the GFCM agreement should insist on the need for training.
- Compliance and enforcement can be improved by the combination of VMS and additional monitoring technologies, bearing in mind the need for budgetary resources.
- The implementation of any management measure agreed upon by GFCM will also depend on the re-organization of GFCM Compliance Committee (CoC) which maybe advisable. To

ensure in particular that GFCM Members comply with management measures, the GFCM Agreement could include a rider whereby there is an obligation for Members to inform CoC. Whereas such a mechanism is currently envisaged under GFCM body of law, it would be necessary to have this spelled out in the GFCM Agreement.

- Recourse to market related measures should be regarded as a viable option for GFCM.
- Any proposed amendment to the GFCM Agreement in point of compliance and enforcement should depart from the fact that relationships among GFCM Members are changing. There is a need for tools and functioning elements that can respond to this evolving scenario and the consequent need for a sound legal basis that will enable the Commission to agree to these tools and functioning elements.
- The mandate of CoC should be reconsidered in a way that the possibility to use CoC also as a forum for mediation in the case of possible disputes arising among GFCM Members is provided for. This would also be relevant under another area identified in the Terms of Reference of the Task Force, namely "Dispute Settlement". In this connection, the GFCM Agreement would benefit from a revision to ensure that disputes can be settled among all GFCM Members and relating to issues other than the interpretation of the GFCM Agreement.

## F. Financial and Administrative Issues

- GFCM has to be endowed with the necessary financial means to respond to the challenges brought about the current status of fisheries and aquaculture. GFCM Members have to continue supporting the Commission, consistent with their capacity. To this end, a revision of the current scale of contributions might be advisable.
- Rules relating to the autonomous budget have to be fair, equitable and rely to objective parameters that facilitate the determination of contributions by GFCM Members. The current financial regulations seem to respond to these needs.
- Calculations of the contributions by GFCM Members to the autonomous budget have to rest
  on a basis which is to be pre-identified and stable. Other international agreements, like the
  Madrid Protocol, could be considered as a point of reference in the possible amendment of
  the GFCM Agreement and its associated rules so that the system of contribution also
  accounts for the impact on fishing by GFCM Members.
- The current criterion employed to determine contributions by GFCM Members to the autonomous budget can be regarded as being fair, equitable and practical. However, it was noted that particular treatment could be accorded to GFCM Members, should there be a need to address specific situations.

# Agenda

- 1. Opening and Welcome Address
- 2. The Task Force: background, objective, work programme
- 3. Outcomes of the work of the Task Force thus far
- 4. Amendment Procedures: GFCM Agreement, Rules of Procedure and Financial Regulations
- 5. Declarations by Members in relation to the implementation of and compliance with the GFCM body of law
- 6. Open Discussion related to the main areas of the Task Force
  - General GFCM objectives
  - Conservation issues
  - Management issues
  - Specific aspects related to aquaculture
  - Compliance and Enforcement
  - Financial and Administrative Issues
- 7. Conclusion of the meeting and final outcomes

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