



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



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**Report of the Task-Force Working Group on the Amendment of the
GFCM Legal Framework
Istanbul, Turkey, 19-21 February 2014**

OPENING, ARRANGEMENT OF THE MEETING AND ADOPTION OF THE AGENDA

1. The Task Force “Working Group on the Amendment of the GFCM Legal Framework” of the GFCM was held in Istanbul, Turkey, on 19-21 February 2014. The Working Group was attended by 35 experts from GFCM Members, observers, the FAO Legal Office, the GFCM Chairperson and the GFCM Secretariat. The list of Participants is provided in Appendix B of this report.
2. Mr Turgay Turkyilmaz, representative of the host country, called the meeting to order and welcomed the participants, underlying the importance that Turkey attached to the organization of this meeting and the process of modernization of the GFCM. In this context, he recalled the ongoing process of strengthening the GFCM to make it more functional in the future. He also noted the necessity of involvement of all Black Sea riparian States, including GFCM non-members, in the decision making process for Black Sea fisheries.
3. Mr Stefano Cataudella, GFCM Chairperson, thanked the hosting country for the hospitality and the proactive approach while delivering his opening statement. He stressed in particular the need for common rules to govern common resources in the GFCM Area and praised the Task Force for the momentous results achieved since its very establishment. Mr Cataudella urged the Working Group to take the reform process to the next level on the basis of the draft revised GFCM Agreement and associated rules compiled by the GFCM Secretariat, which represented in its view a good point of departure for the consultation process.
4. The Agenda was introduced and adopted without changes (Appendix A).

GENERAL OVERVIEW ON THE AMENDMENT PROCESS OF THE GFCM LEGAL FRAMEWORK

5. Mr Abdellah Srour, GFCM Executive Secretary, reviewed the work carried out within the framework of the Task Force after the adoption of the recommendations by the GFCM performance review in 2011. He referred to the various meetings held, the exchange of views, the validation of results and, finally, the draft revised GFCM Agreement and associated rules prepared by two independent experts in 2013. Mr Srour indicated that the GFCM Secretariat had worked in close collaboration with the FAO Legal Office during the inter-session to update the draft documents as they contained a number of provisions *prima facie* incompatible with FAO Basic Rules. A number of

modifications were consequently proposed by the FAO Legal Office and an effort was made by the GFCM Secretariat to circulate the draft documents ahead the Working Group. Discussions were then opened on the draft revised GFCM Agreement.

CONSULTATIONS ON THE DRAFT REVISED GFCM AGREEMENT

6. The Working Group preliminarily observed that the future GFCM Agreement should be a very flexible instrument, avoiding duplications with provisions in the Rules of Procedure and the Financial Regulations. In light of this, it was proposed to defer the elaboration of several provisions to the Rules of Procedure and to leave within the remit of the GFCM Agreement only the very foundations of the future Commission. Furthermore, a number of reservations were made in connection with several articles in the draft revised GFCM Agreement as these articles entailed a number of political and substantial choices that GFCM Members would have to duly consider, including in consultation with their national legal experts, before taking a final position at the scheduled Extraordinary Session.

7. After two readings of the draft revised GFCM Agreement the Working Group developed and reshaped the majority of the articles in the text while making sure that the proposed provisions would be consistent with FAO Basic Texts. It was recommended that the final outcome of the meeting be submitted to the attention of all GFCM Members, relevant non Members, stakeholders and observers without delay in order to facilitate the negotiations at the scheduled Extraordinary Session. Similarly, a number of comments made by the experts of GFCM Members represented during the Working Group would be circulated and they are annexed to this report (Appendix C).

8. The Working Group stressed that discussions and negotiations on the Rules of Procedure and the Financial Regulations would be opened after the adoption of the draft revised GFCM Agreement as the amended text will have a significant bearing on the associated rules. In light of the fact that the amendments to the Rules of Procedure and the Financial Regulations, in particular those without new obligations for GFCM Members, would not require a formal process of endorsement by governments and the FAO like in the case of the amendment of the GFCM Agreement, their adoption could be deferred to future sessions of the Commission. The Working Group thus agreed that all efforts will be made to follow through with the amendment of the draft revised GFCM Agreement at the 38th Session of the Commission. Nonetheless, any final decision on the course of action to be taken in relation to the finalization of the amendment of the draft GFCM Agreement would be taken at the Extraordinary Session, depending on progress in the negotiations and mindful of the importance of this task.

9. Careful assessment of the provisions in the draft revised GFCM Agreement would be performed in due course by the FAO Legal Office through its Committee on Constitutional and Legal Matters with a view to identifying the existence of new obligations for GFCM Members. The FAO Legal Office clarified that, should the proposed amendment of the GFCM Agreement introduce new obligations, these obligations would come into force for each GFCM Member only on their acceptance through a formal ratification process. Those GFCM Members who would not ratify the amendment of the GFCM Agreement would continue to be governed by the previous legal framework, as indicated in current Article XII of the GFCM Agreement. In line with FAO rules as well as with the 1997 GFCM amendment process, a two thirds majority would be required before the entry into force of the new text among ratifying GFCM Members.

10. Given the extensive discussions on important matters such as voting procedures and dispute settlement, it was suggested that some explanatory tables are compiled by the GFCM Secretariat and the FAO Legal Office in order to recapitulate applicable requirements and procedure for the sake of clarity. These tables would be circulated by the GFCM Secretariat ahead of the Extraordinary Session.

11. With a view of landing further legitimacy to the amendment of the GFCM legal framework, the Working Group recommended that two items be inscribed in the agenda of the 38th Session of the Commission, namely (i) cooperation among Black Sea riparian States within the remit of the GFCM

and (ii) improved functioning of the Commission. There was agreement on the fact that the future GFCM arising out of the amendment process would have to be appealing enough to draw the interest of the three Black Sea non Members, and have them joining the Commission, and that day-to-day operations of the Commission would have to be streamlined to avoid overloads and constraints.

ACTIONS TO BE TAKEN

12. The working group suggested that the following actions be taken ahead of the Extraordinary Session:

- To elaborate and circulate a report of the meeting (present document);
- To finalize and circulate a revised text of the draft GFCM Agreement which would include proposed changes in the current GFCM Agreement. New text would be underlined and highlighted, text which should be deleted would appear in strikethrough, text placed under reservation would be in square brackets and options proposed would all be listed within the remit of the relevant text;
- To circulate the comparative table that were made available at the Working Group containing the current GFCM Agreement vs the draft revised GFCM Agreement compiled after the Second Validation meeting;
- To circulate the version of GFCM Rules of Procedure and Financial Regulations that was prepared after the second validation meeting of the Task Force (May 2013, Split, Croatia).

CLOSURE OF THE MEETING

13. Participants expressed their sincere gratitude and appreciation to the hosting country for having conducted in a brilliant fashion the Working Group as well as to the GFCM Secretariat. The government of Turkey indicated its readiness to continue working towards a more functional GFCM, including by organizing GFCM meetings.

Appendix A**Agenda**

- 1. Opening and arrangement of the meeting**
- 2. Adoption of the agenda**
- 3. Reminder on the recommendations of the Task Force and of the work carried out in connection with the amendment process of the GFCM**
- 4. Discussions on proposed amendments to the GFCM Agreement**
- 5. Discussions on proposed amendments to the GFCM Rules of Procedure**
- 6. Discussions on proposed amendments to the GFCM Financial Regulations**
- 7. Endorsement of the proposed amendments to the GFCM Agreement and Annexed Rules**
- 8. Any other matter**
- 9. Closure of the meeting**

Appendix B

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Appendix C**Comments made by experts from Turkey in relation to the draft revised GFCM Agreement at the “Working Group on the Amendment of the GFCM Legal Framework”**

- Turkey supports the strengthening and modernization of the GFCM and welcomes in this respect the extensive efforts made by the Secretariat.
- In this context, the process of amending the GFCM Agreement and other related documents should aim at achieving a functioning, viable, flexible and inclusive mechanism that will ensure a stronger fisheries regime in the area of application with the active, committed and equitable participation of all coastal states in the region.
- In line with this understanding this process should aim at encouraging all relevant coastal states to become party to the regime established by the GFCM. In other words, this process should avoid the risk of discouraging region’s coastal states from becoming party to only-existing fisheries regime in the region.
- Turkey attaches utmost importance to cooperation in the Black Sea, particularly in the field of fisheries via initiatives and mechanisms with the participation of the littoral countries. Lying at the southern part of the Black Sea and having the longest shoreline amongst all the other littoral states, Turkey’s fisheries sector is highly concentrated in the Black Sea. It should also be borne in mind that the EEZs in the Black Sea have been delimited among the littoral countries and there is no high seas area left in the Black Sea.
- Taking into account this fact, the focus should be on establishing a strong but also functioning, viable and flexible mechanism.
- Turkey deems it necessary to establish a Black Sea sub-regional working group with appropriate modalities. Therefore, Turkey has reservations to the proposed Article 9 of the draft amended Agreement.
- Turkey has also reservations to the proposed Article 19 of the draft amended Agreement, concerning settlement of disputes, and considers that “Option 3” would be acceptable.
- Turkey believes that the subparagraph 7 of Article 23 of the draft amended Agreement, concerning reservations, should be deleted and Article 25 should be kept.