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Méditerranée

Compliance Committee (COC)

Intersessional meeting of the Compliance Committee

FAO HQs, Rome, 29-30 January 2015

(available in English only)

EXECUTIVE SUMMARY

The intersessional meeting of the Compliance Committee was held on 29–30 January 2015 at FAO headquarters, Rome, Italy. Following up on the conclusions of the eighth session of the CoC (FAO headquarters, May 2014), this meeting analysed the replies of Contracting Parties to letters of clarification sent by the GFCM Secretariat on the status of implementation of GFCM decisions and the submission of relevant data and information. Also, the CoC examined the activities of those non-Contracting Parties in cases where fishing vessels had been sighted in the Mediterranean or the Black Sea. The CoC took an important decision, that is sending letters of identification and letters of concern to Contracting Parties and non-Contracting Parties identified as being not in compliance, fully or partly, with GFCM decisions. Furthermore, progress was evaluated in the development of a database of national legislations for the Mediterranean and the Black Sea being established by the GFCM Secretariat together with the FAO Legal Office.

OPENING, ARRANGEMENT OF THE MEETING AND ADOPTION OF AGENDA

1. The intersessional meeting of the Compliance Committee was held on 29–30 January 2015 at FAO headquarters, Rome, Italy. Forty-five participants were in attendance from GFCM Contracting Parties, non-Contracting Parties and relevant organizations, in addition to representatives of the FAO and the GFCM Secretariat. The list of participants is enclosed in Appendix B.
2. The meeting was opened by Mr Samir Majdalani, Chairman of the COC. In his address, he emphasized the importance of the clarification and identification process pursuant to recommendation GFCM/38/2014/2 on identification of cases of non-compliance. Mr Majdalani pointed out that all Contracting Parties which were requested by the GFCM Secretariat clarifications on the status of implementation of GFCM recommendations and to submit data and information had replied accordingly. Furthermore, he welcomed the active role of relevant non-Contracting Parties that also submitted data and information to the GFCM Secretariat and saluted enhanced cooperation with the GFCM.
3. Mr Abdellah Srour, GFCM Executive Secretary, introduced the objectives of the meeting and recalled the mandate of the intersessional meeting of the COC, as revised by the Commission at its thirty-eighth session with a view to also including, as appropriate, the responsibility of identifying cases of non-compliance by Contracting Parties and non-Contracting Parties. Mr Srour then introduced the agenda which was adopted without amendments (Appendix A).

REVIEW OF THE REPLIES TO REQUESTS FOR CLARIFICATIONS SENT BY THE GFCM SECRETARIAT TO GFCM CONTRACTING PARTIES

4. The GFCM Secretariat presented the results of the analysis concerning the status of implementation of GFCM recommendations and the submission of data and information by GFCM Contracting Parties, as reported below in alphabetical order. The analysis was based on the replies provided by Contracting Parties to the requests for clarification sent by the GFCM Secretariat to all. As an introduction to the analysis, the GFCM Secretariat reported that the only Contracting Party not concerned by the clarification and identification process at this stage was the Syrian Arab Republic, according to previous decisions taken by the COC. The GFCM Secretariat also informed that, due to some late replies, it could not perform an in-depth transversal and comparative analysis of the root causes of non-compliance by the Contracting Parties. This had been requested by the COC at its eighth session (May 2014, FAO headquarters, Rome, Italy). Regardless, such analysis would be ready for the next session of the COC (May 2015).

- Albania: the status of implementation of GFCM recommendations did not raise any particular concern. The record of Albania was good and, in addition to legislation already enacted at national level to transpose GFCM recommendations, the country was in the process of finalizing a new law on fisheries. Conversely, the submission of data and information presented major gaps and the GFCM Secretariat regarded the progress made as marginal. As explained by the Albanian delegate, this was mainly the consequence of a major restructuring of administrations and ministries at national level, a situation already brought to the attention of the COC at its previous intersessional meeting (January 2014, FAO headquarters, Rome, Italy). Thus, the problem of Albania remained compliance with data and information requirements imposed by GFCM recommendations, including those transposed already into national legislations, as opposed to law-making proper.
- Algeria: the status of implementation of GFCM recommendations was improving. Algeria had submitted to the GFCM Secretariat the text of some new legislation enacted to transpose GFCM recommendations. Also, it was reported that for a number of GFCM recommendations the implementation was in progress and the country was committed to follow through with national procedures, which required some additional time for completion. As for the submission of data and information, the GFCM Secretariat noted that, despite some encouraging progress made by Algeria, some gaps still remained, with particular regard to Task 1 related data. The Algerian delegate acknowledged that her country was deploying serious efforts to comply with applicable data and information requirements but this was not an easy task and technical assistance might be required to progress further.
- Egypt: the status of implementation of GFCM recommendations was improving, although some clarifications were still necessary for a few GFCM recommendations that appeared to be partly implemented or in progress of being implemented. In this regard, the Egyptian delegate informed the Secretariat that he would submit additional information after the intersessional meeting of the COC. At the same time, he suggested that, because a bulk of GFCM recommendations are altogether “not applicable” in some subregions, the analysis of the status of implementation of GFCM recommendations should be performed at sub-regional level by group of Contracting Parties rather than by Contracting Parties in alphabetical order. This might dispel in his view the impression that some GFCM recommendations are not implemented because it would be clear from the outset what GFCM recommendations are to be transposed by the relevant Contracting Parties at the subregional level. The GFCM Secretariat pointed to some missing data and information, including those under Task 1. This area required further work at the national level by Egypt.
- European Union (EU): regardless of the complexity of internal processes for the transposition of GFCM recommendations into EU law, the assessment by the GFCM Secretariat was positive. It was noted that some GFCM recommendations were partly implemented and that the EU was doing its best to enact associated regulations or decisions. In this regard, it was observed that the need for adequate time to transpose GFCM recommendations had justified the decision by the COC at its eighth session to limit the assessment of the status of

implementation of GFCM recommendations to those adopted up to 2012 (included). However, when transposition was in progress in the EU this did not mean that the EU was not ensuring compliance with GFCM recommendations. As for the GFCM recommendation on sharks in particular, it was anticipated by the delegate of the EU that four derogations, made in accordance with the relevant provisions therein, would be transmitted shortly to the GFCM Secretariat (Bulgaria, France, Romania and Slovenia). The GFCM Secretariat then reported good progress in relation to the submission of data and information by those EU members Contracting Parties to the GFCM. However, a few gaps remained. The delegate of the EU clarified that once GFCM recommendations were transposed into EU law this meant that the EU endowed itself with the means to ensure compliance with the obligations foreseen. Consequently, the lack of data, including missing submissions, should not be regarded as tantamount to non-compliance. It was noted though that the obligations to provide data and information by Contracting Parties under relevant GFCM recommendations were of paramount importance for the work of the Commission and letters of identification should be sent to those Contracting Parties not implementing GFCM recommendations as well as to those Contracting Parties that were not fulfilling entirely their obligation to submit data and information to the GFCM Secretariat.

- Israel: the GFCM Secretariat noted that there was a steady progress in the status of implementation of GFCM recommendations by Israel and only the recommendation on logbook remained “not implemented”. The efforts by Israel in terms of implementation of GFCM recommendations were in turn stressed. The same held true for the submission of data and information albeit there was still some progress to be made, with regard in particular to the vessel record and the Task 1 related data. In this connection, the national reporting requirements had still to be fully aligned with those of the GFCM as a follow-up to the transmission of a first set of data and information by Israel.
- Japan: the implementation of GFCM recommendations was regarded as excellent as well as the submission of relevant data and information by Japan. In response to the request for clarifications, Japan had submitted to the GFCM Secretariat an updated list of vessels authorized to operate in the Mediterranean Sea while confirming that, in 2014, there had been no fishing activities in the GFCM area of application. Japan also remained active in supporting at national level some Contracting Parties through projects on fisheries and aquaculture run by the Japanese International Cooperation Agency (JICA), an undertaking that was positively contributing to the overall responsible management of fisheries.
- Lebanon: the progress made by Lebanon in the implementation of GFCM recommendations was deemed encouraging. The reason why a number of GFCM recommendations remained in progress of implementation was the pending adoption of the new framework legislation on fisheries and aquaculture. The Lebanese delegate informed that this legislation, as prepared by the FAO Legal Office and the GFCM, had been “lebanized” and was in the process of being considered by the Parliaments. He hoped that its adoption could be forthcoming. With regards to the data and information, the submission was sparse for the vessel record and the Task 1 in particular. Lebanon had been working hard with the EastMed Project though to improve the situation and it was fully committed to be more compliant with GFCM reporting requirements.
- Libya: as opposed to 2014, a few GFCM recommendations which were currently being implemented in Libya were now implemented. Progress was hampered overall by recent political events, although the national administration had been working strenuously and maintained regular contacts with the GFCM Secretariat. The submission of data and information was still missing for the Task 1 related data and had therefore to be improved.
- Monaco: following the decision taken by the GFCM at its thirty-seventh session on fishing activities by Monaco, which reported no catches in the GFCM area of application in recent years, several GFCM recommendations were not applicable. Consequently, the GFCM Secretariat requested Monaco, through a request for clarifications, to confirm that fishing activities were not occurring. This was indeed the case and no data had been submitted by Monaco as a result of the present absence of registered fishing vessels. The GFCM Secretariat

noted with appreciation that Monaco remained nonetheless very active within the remit of the Commission and was in the process of contributing to the GFCM Framework Programme.

- Montenegro: the transposition of GFCM recommendations at the national level was not advancing much. Little progress was being made in the submission of data and information to the GFCM Secretariat as well. The delegate of Montenegro explained that this situation could be the result of a lack of time for implementation. However, there is a strong political will for implementing all GFCM recommendations and EU regulations relating to fisheries. He acknowledged that a letter of identification to his country would hence be warranted.
- Morocco: the majority of GFCM recommendations were being implemented by Morocco, despite the time required at the national level to enact legislations. The GFCM Secretariat reported progress on the data flow from Morocco which was timely and accurate. The delegate of Morocco recalled that his country had appointed a focal point to the COC and this was helping in channelling communication to the GFCM Secretariat. He also informed the meeting that a new law on the logbook had just entered into force, the text of which was provided on the spot to the GFCM Secretariat. He said that his country is organizing awareness campaigns for the benefit of the profession to reduce the incidental catch of seabirds. Also, he prompted exchange of experience among GFCM Contracting Parties in this matter.
- Tunisia: the status of implementation of GFCM decisions was overall positive and only one recommendation was reported as being partly implemented. Tunisia had also doubled its efforts to submit to the GFCM Secretariat relevant data and information and this was duly noted by the GFCM Secretariat. The delegate of Tunisia explained that for port State measures a law had been enacted which contained very strict provisions towards entry into Tunisian ports by foreign fishing vessels. As for the recommendation on VMS, the delegate of Tunisia sought the support of the GFCM and indicated that it would be important to gather, through the Commission in future meetings on the subject, those companies which were providing services linked to control of vessels as this would help Contracting Parties to screen for available options and make comparative assessments on prices and technologies. More generally speaking, the need for the GFCM to act as a bridge with the fisheries sector was stressed and in this regard the idea of building awareness via ad hoc initiatives was discussed.
- Turkey: the GFCM Secretariat reviewed all the GFCM recommendations which had been successfully implemented by Turkey. There was only one recommendation (on minimum mesh size in the codend of demersal trawl nets) which was being partly implemented. As for the submission of data and information to the GFCM Secretariat, the flow of communication was deemed to be very good. In this regard, the promptness of Turkey was praised.

5. The GFCM Secretariat, with a view to summarizing the progress made in both the status of implementation of GFCM recommendations and in the submission of data and information, drew up two separate comparative tables which were examined by the participants. In addition, it presented the webpages created on the GFCM website relating to information received by Contracting Parties on designated ports and the IUU list. This list would be reviewed before the ninth session of the COC based on the information received by Contracting Parties. It was indicated that an Excel file was being created to gather also the information relating to the national fishing monitoring centres, as submitted by the Contracting Parties. Unlike the case of port State measures and IUU fishing, there was no obligation to make this information available through the GFCM website.

DISCUSSIONS ON POSSIBLE CASES OF NON-COMPLIANCE BY GFCM CONTRACTING PARTIES AND FUTURE COURSE OF ACTION

6. In the ensuing discussions the COC screened a number of different options in order to deal with cases of non-compliance. The GFCM Secretariat pointed to the most recurrent problems that were experienced by Contracting Parties in relation to compliance. Although the transversal and comparative analysis of the root causes of non-compliance could not be performed by the GFCM Secretariat because of the delay in the receipt of some responses to the request for clarifications, a very preliminary list of main problems detected was nonetheless provided. These problems, of a technical,

financial, legal, administrative and political nature, affected several countries at the same time depending on the GFCM recommendation concerned. There was agreement on the negative impact that similar externalities might have at the national level on compliance with GFCM recommendations but it was proposed to defer more detailed discussions on the issue at the ninth session of the COC. Consequently, the discussions on corrective measures, which were included in the mandate of the intersessional meeting of the COC for cases of non-compliance identified, were postponed too.

7. Regardless, the COC expressed its apprehension for the fact that, despite the progress made by Contracting Parties in general terms, compliance was still to be fully achieved. It was thus deemed appropriate to revert to letters of identification and letters of concern, although no corrective measures could be linked to the letters at this stage. In this regard, it was recalled that in other RFMOs the sole transmission of the letters had proven to be enough deterrent for the targeted countries to act and resolve the situation of non-compliance. This was because the political nature of the letter could prove sufficiently powerful to elicit compliance. In addition, the COC noted that most of the gaps detected by the GFCM Secretariat in its analysis of the responses to the letters of clarifications partly stemmed from political will. It was thus worth considering the opportunity to prompt relevant Contracting Parties to redouble their efforts towards compliance with GFCM recommendations.

8. With regard to the problems associated with the collection and submission of data and information in particular, the GFCM Secretariat recalled that the application of the precautionary approach postulated that the lack of data should not represent an excuse not to take management measures necessary to prevent the overexploitation of the stocks. Also, it pointed out to the ongoing work relating to the GFCM Data Collection Reference Framework (DCRF) which had been launched by the Commission in light of the difficulties encountered by Contracting Parties with the Task 1. According to the GFCM Secretariat the entry into force of the GFCM Data Collection Reference Framework should streamline the process and improve compliance with GFCM recommendations.

9. As for the course of action to be followed, it was proposed that letters of identification and letters of concern would be sent by the GFCM Secretariat through the usual diplomatic channels on the basis of the draft formats agreed. Whereas the format for the letter of identification had been adopted at the thirty-seventh session of the Commission (May 2013, Split, Croatia), a draft format letter of concern was endorsed by the COC and is annexed under Appendix E of this report. It was proposed that letters of identification should be sent to those Contracting Parties with at least one “not implemented” status in the table presented by the GFCM Secretariat which is annexed under letter C of this report. Similarly, the letter of identification would be sent also to those Contracting Parties that have not submitted relevant data and information, as reported in the table presented by the GFCM Secretariat which is annexed under letter D. The letters of concern on the other hand would be sent to those Contracting Parties having at least one “partly implemented” status (see annex C).

10. The importance of fostering further cooperation, including through technical assistance and capacity building to support Contracting Parties in complying with GFCM recommendations was emphasized. The GFCM Secretariat thus renewed its invitation to Contracting Parties, when responding to the above letters in due course, to clearly state what technical assistance needs they might have in addition to providing relevant justifications that might clarify existing situations of non-compliance or partial compliance.

REVIEW OF AVAILABLE INFORMATION CONCERNING COMPLIANCE WITH GFCM RECOMMENDATIONS BY NON-CONTRACTING PARTIES

11. The GFCM Secretariat recalled that the mandate of the intersessional meeting of the COC also included the identification of possible cases of non-compliance by relevant non-Contracting Parties. It also recalled that the COC in its previous meetings had already shed light on the alleged fishing activities of some non-Contracting Parties and that a different approach was necessary to examine all these cases. In this regard, the GFCM Secretariat advocated proceeding separately for the Black Sea and the Mediterranean Sea. This was because the geographical and legal features of both basins differed in several respects. The level of cooperation with non-Contracting Parties also differed in both basins.

Black Sea

12. Being the Black Sea a closed sea where the six riparian countries had all delimited their exclusive economic zones, reference was made to the applicable provisions in the 1982 United Nations Law of the Sea Convention (UNCLOS) which provided for the duty of coastal States to cooperate in the conservation and management of shared and migratory living marine resources through the existing regional fisheries management organizations (RFMOs) – i.e., the GFCM. As a result of the ratification of this convention by the three coastal States currently non-Contracting Parties, namely Georgia, Russian Federation and Ukraine, there existed an obligation for the GFCM to foster cooperation with them so to verify to what extent these countries were making efforts consistent with the applicable GFCM requirements.

13. With regard to Georgia, the GFCM Secretariat informed the COC that there was an ongoing dialogue with relevant authorities at national level. Reference was made to the bilateral visit to Tbilisi in September 2014 when a fruitful exchange of views took place. Georgia had also offered to host the fourth meeting of the GFCM Working Group of the Black Sea (March 2015, Tbilisi) which was a clear token of cooperation with GFCM and support to its work in the Black Sea. Furthermore, Georgia had submitted to the GFCM Secretariat a preliminary set of data and information relating to the fleet, the catch and aquaculture. This was a very useful basis to continue working together as the country would benefit from technical assistance to further develop its fisheries and aquaculture sector. The delegate of Georgia in noting this also stated that the awareness at the national level about the GFCM and its work in the Black Sea had been built by now. She hoped that more synergies could be launched with the GFCM in due course but affirmed that there was already a firm intention to cooperate with the view to preserve the marine living resources of the Black Sea.

14. The case of the Russian Federation was reviewed on the basis of the detailed data and information submitted to the GFCM Secretariat in response to a letter sent to the Federal Agency of Fisheries in November 2014. In addition, as the Russian Federation had already submitted to the COC at its eighth session a national report with pertinent information on national fisheries and aquaculture in the Black Sea, the picture was fairly clear. The GFCM Secretariat underscored in particular the periodical exchange of information with the Russian Federation and the positive stance towards cooperation with the GFCM. The amended GFCM Agreement, as presented to the FAO Council at its 150th session for approval also in the Russian language, was being closely examined by the competent authorities. The delegate of the Russian Federation explained that cooperation with the GFCM was welcome by his national authorities and that the Russian Federation was committed to engage in matters pertaining to the Black Sea within the GFCM, as well as in relevant statutory meetings.

15. The data and information received by Ukraine were presented by the GFCM Secretariat. The COC was informed that the State Agency of Fisheries had been exchanging information with the GFCM routinely and that over the last two years Ukraine, of the three non-Contracting Parties in the Black Sea, had been the one with the highest rate of attendance to GFCM meetings, including those relating to the amendment of the GFCM legal framework. There was an interest by Ukraine in promoting further the development of its fisheries and aquaculture sectors but, as the national delegate explained, technical assistance was needed. Regardless, he expressed a positive opinion towards the work of the GFCM in the Black Sea and hoped that further support could be mustered for the Black Sea through the GFCM so that the six riparian parties could tackle together issues of common concern.

Mediterranean Sea

16. The GFCM Secretariat clarified that the geographical features of the basin are different relative to the Black Sea in that the Mediterranean Sea is semi-enclosed. This had direct repercussions as to how conceiving of cooperation because, unlike the Black Sea, there was the possibility that fishing vessels flying the flag of non-Contracting Parties which were non-coastal States could be sighted in the Mediterranean Sea. From a legal point of view this situation was to a certain extent underpinned by the presence of high seas portions throughout the Mediterranean Sea, which meant that foreign fishing vessels could claim the principle of freedom of the high sea to justify fishing. However, the GFCM Secretariat explained that the high seas were regulated by the relevant provisions of the 1995 United Nations Fish Stocks Agreement and the 1993 FAO Compliance Agreement which defined very clear obligations for fishing activities in these areas. In particular, it was recalled that

international law as embodied in these treaties did not permit fishing in those high seas portions which were under the mandate of an RFMO. When an RFMO existed, those countries fishing in its competence area were expected to comply with their duty to cooperate in the conservation and management of living marine resources either by becoming Contracting Parties or by abiding by all its measures through the appropriate cooperative scheme (e.g. cooperating non-Contracting Party status) so that no fishing could take place without playing by the rules in place.

17. The only exception to the above scenario, as presented by the GFCM Secretariat, was Bosnia and Herzegovina, the only coastal State non-Contracting Party to the GFCM in the Mediterranean Sea. The GFCM Secretariat informed the COC of the outcomes of a recent bilateral meeting in Sarajevo with the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina. On the occasion of these meetings, information was exchanged on the fishing and aquaculture sectors of Bosnia and Herzegovina as well as on the mandate and role of the GFCM. Furthermore, Bosnia and Herzegovina had submitted to the GFCM Secretariat data relating to its national fleet and the living marine resources targeted at the national level. The delegate of Bosnia and Herzegovina expressed the view that further cooperation had to be built with the GFCM, including through cooperating non-Contracting Party status, and she hoped dialogue could continue towards a more active involvement of her country within the GFCM.

18. The GFCM Secretariat then reported on the ongoing cooperation with the People's Republic of China. It was preliminarily pointed out that in 2014 there had been three cases where Chinese flagged vessels had been sighted in the Mediterranean Sea. On two occasions, the GFCM Secretariat had circulated to its Contracting Parties a circular letter to draw their attention on the matter and take action, as appropriate. The GFCM Secretariat had also contacted the People's Republic of China and in both occasions there was a prompt, clear and detailed exchange of information. More precisely, the Division of Distant Water Fishing Bureau of Fisheries of the Chinese Ministry of Agriculture had submitted to the GFCM the tracking of the fishing vessels concerned and their authorization to fish oversea. Furthermore, it clarified that the fishing vessels were transiting through the Mediterranean Sea (via the Suez Canal) en route to the Atlantic Ocean where they reached the ports in those countries that entered a bilateral agreement on fisheries matters with the People's Republic of China. According to the information provided by the People's Republic of China, no illegal fishing activities had been carried out in the Mediterranean Sea by the fishing vessels concerned. The COC expressed gratitude to the People's Republic of China for the exchange of information while requesting the GFCM Secretariat to continue to promote dialogue and promptly contact the Chinese authorities when Chinese fishing vessels were sighted in the Mediterranean Sea with a view to corroborating the absence of fishing activities.

19. An update was provided on Portugal since a first set of data and information had been submitted already at the eighth session of the COC via the European Commission. The GFCM Secretariat welcomed the efforts of Portugal in the submission of data and information and hoped that this could be further consolidated and completed through routine exchange of correspondence. The data and information included the catch of Portugal in the Mediterranean Sea for the year 2014. This amounted to 99 tons of natantia, a species targeted by two Portuguese fishing vessels operating mostly in the Strait of Sicily and around the Balearic Islands. The delegate of the EU clarified that Portugal, being a member of the EU which is in turn a Contracting Party to the GFCM, was bound by all GFCM recommendations transposed into EU law and that it was thus subject to the same rules and expected compliance as others EU members fishing in the GFCM area of application. As a result, it was not possible to consider for Portugal a cooperating non-Contracting Party status as this would introduce a *decalage* which would be contrary to the EU law. As for the decision by Portugal to become a Contracting Party, with the consequent financial obligations entailed, it was stated that this remained a national prerogative of the country. The GFCM Secretariat clarified that at present the contribution of the European Commission, which was paying for the whole catch component of its members Contracting Parties to the GFCM, did not include the Portuguese Mediterranean catch.

20. Another case presented by the GFCM Secretariat involving a distant water fishing nation was that of the Republic of Korea. It was recalled that, historically, the Republic of Korea had fished in the GFCM area of application and continued to do so (tuna fishing). There was one vessel, the Sajo Melita, currently anchored in Malta which operated in the Mediterranean Sea. The GFCM Secretariat

reported that the exchange of communication with the Korean Ministry of Oceans and Fisheries was periodical and productive. The Republic of Korea had been very proactive and always responded exhaustively to GFCM requests. Reference was made also to the participation of the Republic of Korea in the eighth session of the COC, including the speech delivered on that occasion by the national representative, which was annexed to the final report. Subsequently, the GFCM Secretariat had met with representatives of the Korean Ministry of Oceans and Fisheries on the occasion of the FAO Committee on Fisheries (COFI). This had greatly helped in establishing channels of communication and clarifying the mutual positions. The Republic of Korea had also rapidly provided GFCM with information relating to vessels flying its flag, other than the Sajo Melita, sighted in the Mediterranean Sea. As a matter of fact, when this happened it was proven that the vessels concerned had been sold by the relevant Korean companies and were reaching their new ports of destination before being scrapped and reflagged. The COC welcomed the constructive dialogue with the Republic of Korea and encouraged the GFCM Secretariat to maintain regular contacts, when appropriate, underlying that compliance was expected with GFCM recommendations, even by one fishing vessel only.

21. The GFCM Secretariat presented information on the Russian Federation for the case of the Mediterranean Sea too. As opposed to the Black Sea, where the Russian Federation had to be considered as a coastal State, in the Mediterranean Sea it operated as a distant water fishing nation. As such, it was subject to the provisions of the 1995 UN Fish Stocks Agreement. On average, one Russian flagged fishing vessel per month was spotted in the Mediterranean Sea subsequent to the eighth session of the COC. In each and every case, the GFCM Secretariat, when contacting the Russian focal point to obtain clarifications, had always received thorough replies, including the tracking of the vessels, all the vessels' details, purpose of their trips, final destination, etc. In no case there was an indication of possible fishing activities and in three cases only the Russian fishing vessels had anchored at Mediterranean ports. That was due either to the need to refuel or to some repairing necessities because of technical problems. The GFCM Secretariat drew the attention of the COC that two out of three Russian fishing vessels had anchored at the port of Gibraltar. This raised questions as to the applicability of the recommendation GFCM/2008/1 on "a regional scheme on port state measures to combat illegal, unreported and unregulated fishing in the GFCM area" as Gibraltar currently did not figure among the list of GFCM landing ports. As for the cooperation offered by the Russian Federation in connection with the case of the Mediterranean Sea, the COC acknowledged with appreciation the punctuality and diligence of the Russian authorities.

Sui generis legal regimes

22. The GFCM presented two *sui generis* legal regimes and sought the advice of the COC in relation to both. The first one was the case of Gibraltar, which was a "British Overseas Territory" currently not subject to the EU Common Fisheries Policy. The GFCM Secretariat recalled that the United Kingdom was one of the very founding Contracting Parties to the GFCM. It had ratified the original GFCM Agreement in 1951 and it withdrew in 1968. In the early reports of the GFCM, references were made to Gibraltar and fishing activities therein. As for the possibility of commercial fishing in Gibraltar nowadays, there was no information available. A 2012 report entitled "The Management of Marine Living Resources in the waters around Gibraltar" indicated how Gibraltar seemed to be preparing for commercial fishing and also contained an entire section on the importance of the GFCM. Among the various recommendations made in the report, there was one referring to the need for Gibraltar to consider becoming a Contracting Party to the GFCM, through the United Kingdom. The report had been followed up by a set of regulations (Marine Protection Regulations 2014, LN. 2014/180), entered into force on 1st January 2015, which included among others provisions on permits for the purpose of fishing with longlines and minimum fish size for commercial species, and by the establishment of a Fishing Regulations Working Group in December 2014.

23. The other *sui generis* legal regime presented was that of West Bank and Gaza Strip. The GFCM Secretariat referred in particular to fishing activities carried out in the Gaza Strip. The data and information transmitted to the GFCM Secretariat in 2013 were fairly complete and, although requiring additional details, they provided a clear snapshot of the fleet, the catch and the profitability of the sector and its importance for the livelihood of the people in the Gaza Strip. The West Bank and Gaza Strip had also participated to the 2013 meeting of the SAC. However, no further exchange of

information had taken place ever since. In this regard, the role of the EastMed Regional Project, as a vector to facilitate further exchange of information and promote cooperation, was noted.

DISCUSSIONS ON POSSIBLE CASES OF NON-COMPLIANCE BY NON-MEMBERS AND FUTURE COURSE OF ACTION

24. The COC expressed great satisfaction for the ongoing cooperation in the Black Sea and underscored the importance of the work done by the GFCM. Additionally, reference was made to recommendation GFCM/2006/5 on the criteria for obtaining the status of Cooperating non-Contracting party in the GFCM area. The COC noted that the three non-Contracting Parties fulfilled *prima facie* the necessary requirements provided therein and thus encouraged them to apply for Cooperating non-Contracting Party status as an immediate step to formalize their ongoing cooperation with the GFCM. It was decided that the GFCM Secretariat would send an invitation to these countries with a view to confirming their interest in obtaining such status. Reference was made to the upcoming fourth meeting of the GFCM Working Group of the Black Sea which represented a timely opportunity to request the Cooperating non-Contracting Party status. This would be granted subsequently by the Commission at its thirty-ninth session in May 2015.

25. In the discussions relating to non-Contracting Parties in the Mediterranean Sea, the COC expressed the view that there was no need at the present stage to revert to letters of identification. On the other hand, it was proposed that a letter of concern be sent to the EU in relation to Portugal because of the lack of data. For the other non-Contracting Parties, it was opportune to keep track of any fishing vessel sighted in the Mediterranean Sea and contact the relevant national authorities without delay. The right to transit under international law, including for fishing vessel, was recalled. In this regard, and because most of the times foreign fishing vessels entered the Mediterranean Sea via the Suez Canal, the delegate of Egypt clarified that, under the 1954 Suez Canal Base Agreement, his country could not deny any vessel from crossing, short of a few exceptions (which did not include fishing vessels). However, the Egyptian law prohibited all activities to foreign fishing vessels in its national waters other than transit or access to port in transit zones.

26. As a result of the application of Article 18 of the GFCM Agreement, the responsibility of Contracting Parties to also contact bilaterally non-Contracting Parties and support the Commission was underlined, including in connection with the fight against IUU fishing. This would be of particular use when the GFCM Secretariat sent circular letters relating to fishing vessels sighted in the Mediterranean Sea. Contracting Parties were expected to follow-up directly on these letters and touch base with the flag State concerned. A concerted approach would surely strengthen the mechanism and amplify the dissuasive weight of the action taken.

27. Finally, the COC was of the opinion that a request of clarification should be sent to Gibraltar in order to find out whether commercial fishing was taking place or was about to take place. The EU informed the GFCM Secretariat that this letter should be sent to the United Kingdom. The COC was also in favour of cooperation with West Bank and Gaza Strip. The GFCM Secretariat would do its best to establish contact.

SESSION ON LEGISLATION, INCLUDING THE COMPENDIUM OF GFCM DECISIONS

28. Mr Blaise Kuemlagan and Mr Andres Vatter Rubio, from the FAO Legal Office Development branch, outlined the various activities and initiatives being promoted by their service. These included a wide range of actions in support to FAO Members, including assistance in drafting legal legislations and training to raise awareness on the provisions in the 2009 FAO Port State Measures Agreement towards its ratification. Furthermore, they referred to the various databases with national legislations being developed and updated by the FAO Legal Office and stressed that synergies exist with the work of the GFCM. In particular, the GFCM Secretariat could transmit to the FAO Legal Office the list of designated ports and national fishing monitoring centres. In concluding, the rationale behind the joint creation of a subset of the FISHLex database for the GFCM was described together with ongoing work being undertaken with the GFCM Secretariat.

29. In the ensuing discussions, several Contracting Parties thanked the FAO Legal Office for the expert support it landed to them in drafting or updating their national legislations. The process that led a country to seek the assistance of the FAO Legal Office in these cases was briefly recapped and the willingness to support such undertakings renewed. Furthermore, for the case of Contracting Parties and as it happened already in the case of Lebanon, it was propounded that request could be channelled through the GFCM Secretariat and joint ventures be developed accordingly.

30. The GFCM Secretariat further elaborated on the final part of the presentation by the FAO Legal Office detailing the progress on the establishment of a database with national legislations, including both those of Contracting Parties and relevant non-Contracting Parties. The origins of the process, which could be tracked back to the LaMed Project funded by Italy, were recalled as well as recent decisions by the COC at its eighth session, when the importance for such a tool was emphasized. The linkages existing between the database with national legislations and the clarification and identification process were also elucidated, particularly in point of transposing GFCM recommendations into national legislations. The GFCM Secretariat acknowledged the contribution of the FAO Legal Office, which was transferring information on most recently enacted national legislation, and the synergic approach of this initiative was praised. The IT requirements entailed were also presented.

31. The COC agreed that there was significant benefit in establishing a database with national legislations in cooperation with the FAO Legal Office. This endeavour would be relevant both for dissemination and awareness-raising purposes and for prompting Contracting Parties to transpose GFCM recommendations into national legislations. There would be a user-friendly and down-to-earth tool available to them so that they could see how much every Contracting Party was advancing and draw comparisons and conclusions. The opportunity to also add to the database with national legislations a section for the GFCM Compendium was also discussed and positively evaluated.

32. Mr Srour specifically referred to the GFCM Compendium and reminded the COC that an item had remained pending on the agenda of the Committee since 2013, relating to the possible update of this instrument. It was not possible to look into the matter in details due to the lack of time which had motivated in turn the decision to adjourn the discussions. The issue of standing was the outdated nature of some provisions in GFCM decisions reproduced in the Compendium. Furthermore, the text required an alignment of the terminology employed with that in the amended GFCM Agreement and a proper legal editing to write off redundancies and inaccuracies. A separate, albeit equally relevant problem, was that of the ICCAT recommendations relevant to the Mediterranean Sea endorsed by the GFCM and included in the Compendium. Mr Srour affirmed that of late years the GFCM had discontinued the practice of automatic transposition of relevant ICCAT recommendations because Contracting Parties had pointed that there was no full correspondence in the membership of these two organizations and this created in turn legal obligations stemming from a treaty that was not ratified by all of them, contrary to the provisions of the 1969 UN Convention on the Law of Treaties. As a result though, the ICCAT recommendations still figuring in the GFCM Compendium had been superseded by new ICCAT recommendations not endorsed by the GFCM or repealed altogether. This created an ambiguous situation from a legal point of view that had to be clarified.

33. After a prolonged exchange of opinions, the COC came to the conclusion that the GFCM Compendium required an in-depth critical analysis. The timing for such analysis was perfect as the amendment process of the GFCM legal framework was expected to be completed at the thirty-ninth session of the Commission with the adoption of the amended Rules of Procedure and Financial Regulations. It was thus possible to move, at the next intersession, to the revision of the GFCM Compendium. To this end, it was proposed that the GFCM Secretariat would present to the ninth session of the COC an inf. document with the course of action to be followed, including relevant modifications, additions, deletions that could be made to the text of the document and the roadmap for its adoption (e.g. organization of an expert meeting within the remit of COC). The GFCM Secretariat would also address in this document ICCAT recommendations included in the GFCM Compendium and offer alternatives for Contracting Parties to consider with the aim of streamlining the GFCM Compendium.

ANY OTHER MATTER

34. The delegate of Morocco asked whether a point in the agenda of future COC meetings should be included in connection with cooperation between the GFCM and those organizations that entered into a memorandum of understanding with the GFCM. He noted that several of these memoranda had been concluded and was of the idea that a periodical update on the progress in cooperation was appropriate.

35. The Executive Secretary recognized that the point raised was relevant. He expressed concern though about a possible duplication, as by the GFCM Secretariat annually presented to the Commission a document on cooperation inviting the Commission to provide advice, including on possible new memoranda of understanding. In his opinion the COC should not be entrusted with this matter or it would encroach on the functions of the Commission. With specific regard to cooperation with ICCAT, he stated that the GFCM was always open to rekindle interest in joint undertakings but a more direct engagement of the Contracting Parties was necessary, including bringing the issue to the attention of ICCAT at its future meetings.

36. The Observer Organization Oceana expressed regret that no measure to address cases of non-compliance was concretely discussed. Oceana pointed out that the establishment of a clear system of such measures would be the most effective way to ensure compliance. Also, it was recalled that other RFMOs, such as ICCAT, have set up a full system of compliance review which, in addition to also include the revision of compliance tables and catch data, foresees associated actions which are taken in case of non-compliance with relevant obligations as well, including reporting obligations.

CONCLUSIONS AND RECOMMENDATIONS TO THE COC, INCLUDING IN RELATION TO LETTERS OF IDENTIFICATION

37. The intersessional meeting of COC agreed on the following recommendations and requested to the GFCM Secretariat to take action accordingly, i.e.:

- transmit a letter of identification, on the basis of the format adopted by the Commission at its thirty-seventh session, to those Contracting Parties having a “non-implemented status” (see Annex C) or not having transmitted data and information (see Annex D). Responses to these letters would be examined by the COC at its ninth session.
- transmit a letter of concern, on the basis of the format adopted by the COC at the intersessional meeting (see Annex E), to those Contracting Parties having “partly implemented status” (see Annex C). Responses to these letters would be examined by the COC at its ninth session.
- transmit a letter of concern, on the basis of the format adopted by the COC at the intersessional meeting (see Annex E), to the European Union for the case of Portugal. The response to this letter would be examined by the COC at its ninth session.
- transmit a request for clarification, on the basis of the format adopted by the Commission at its thirty-seventh session, to the United Kingdom for the case of Gibraltar. The response to this request would be examined by the COC at its ninth session.
- contact Bosnia and Herzegovina, Georgia, Russian Federation and Ukraine, and encourage them to request becoming Cooperating-non Contracting Parties, pursuant to recommendation GFCM/30/2006/5.
- follow through with the establishment of a database on national legislations and present it to the COC at its ninth session.
- carry out a critical analysis of the GFCM decisions with a view to enhance coherence and streamline their provisions. This analysis should be submitted to the COC at its ninth session in connection with the item relating to the status of the GFCM Compendium.

38. Furthermore, the intersessional meeting of COC agreed on the following general recommendations:

- Capacity-building and technical assistance should be further enhanced, where necessary, as a means to ensure better compliance with GFCM recommendations by Contracting Parties and relevant non-Contracting Parties.
- awareness should be built on the need to promote responsible fisheries and aquaculture in the Mediterranean Sea and, in particular, on fostering dialogue with representatives of these sectors (e.g. association of fishermen, aquaculture farmers, etc.).
- the issue of cooperation between GFCM and ICCAT, including the possibility of entering into a memorandum of understanding, should be brought by Contracting Parties which are also Members of ICCAT to the attention of this organization at its future meetings or via letters to the ICCAT Secretariat.

CLOSURE OF THE INTERSESSIONAL MEETING OF THE COC

39. The conclusions and recommendations were adopted on 30 January 2015. The final report of the meeting was endorsed by email. Actions to be taken by the GFCM Secretariat according with the adopted conclusions and recommendations will be subsequent to the endorsement of the final report of the meeting by email. Albania, Algeria, Lebanon, Montenegro and Tunisia will be transmitted the relevant tables together with the letters.

Agenda

- 1. Opening and arrangements of the meeting**
- 2. Adoption of the agenda**
- 3. Review of the replies to requests for clarifications and critical analysis of the implementation of relevant GFCM decisions (by GFCM Secretariat)**
- 4. Discussions on possible cases of non-compliance by GFCM Contracting Parties and future course of action, including technical assistance and capacity-building needs**
- 5. Review of available information concerning compliance with GFCM recommendations by non-Contracting Parties (by GFCM Secretariat)**
- 6. Discussions on possible cases of non-compliance by non-Contracting Parties and future course of action**
- 7. Session on legislation, including the Compendium of GFCM decisions**
 - Progress in the establishment of the GFCM wiki portal on relevant legislations adopted by GFCM Contracting Parties and relevant non-Contracting Parties
 - Assessment of needs for the update and integration of information available through the portal
 - Discussions on course of action to be followed towards the online activation of the portal
 - Update on the compilation of the GFCM Compendium
- 8. Conclusions and recommendations to the CoC, including in relation to possible letters of identification to be sent**
- 9. Closure of the meeting**

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Status of implementation of GFCM decisions

GFCM DECISIONS	STATUS												
	ALB	DZA	EGY	EU	ISR	JPN	LBN	LBY	MCO	MNE	MAR	TUN	TUR
Rec. GFCM/36/2012/2 - Conservation of cetaceans	I	IP	n/a	PI	I	I	I	n/a	I	PI	I	IP	I
Rec. GFCM/36/2012/3 - Conservation of sharks and rays	I	I	I	PI	I	I	I	IP	I	NI	I	I	I
Rec. GFCM/36/2012/1 and GFCM/35/2011/2 - Red coral	n/a	I	n/a	PI	n/a	I	n/a	n/a	n/a	PI	I	IP	I
Res. GFCM/35/2011/1 - On the submission of combined data on fishing vessels	PI	IP	IP	PI	IP	I	PI	PI	n/a	NI	I	IP	I
Rec. GFCM/35/2011/1 - Logbook	PI	IP	PI	I	NI	n/a	PI	PI	n/a	I	I	IP	I
Rec. GFCM/35/2011/3 - By-catch of seabirds	IP	I	I	PI	n/a	I	I	n/a	I	NI	IP	IP	I
Rec. GFCM/35/2011/4 - By-catch of sea turtles	I	I	I	PI	I	I	I	I	I	NI	I	IP	I
Rec. GFCM/35/2011/5 - Conservation of the Monk seal	IP	I	n/a	PI	I	I	I	n/a	I	NI	I	I	I
Rec. GFCM/35/2011/6 - On reporting of aquaculture	I	I	IP	PI	IP	n/a	PI	PI	n/a	I	I	I	I
Rec. GFCM/34/2010/2 - On the management of fishing capacity (Report FC in 2007, 2008 and 2009)	IP	IP	IP	I	PI	n/a	PI	PI	n/a	NI	I	PI	I
Rec. GFCM/33/2009/1 - Fisheries Restricted Area in the Gulf of Lion	n/a	n/a	n/a	I	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Rec. GFCM/33/2009/2 - Minimum mesh size in the codend of demersal trawl nets	I	I	IP	I	IP	I	n/a	I	n/a	I	I	IP	PI
Rec. GFCM/33/2009/3 - Task 1	I	I	I	I	IP	n/a	I	PI	n/a	I	I	I	I
Rec. GFCM/33/2009/7 - Vessel Monitoring System (VMS)	I	PI	IP	I	IP	I	n/a	PI	n/a	I	I	IP	I
Rec. GFCM/33/2009/8 - List of vessels IUU fishing	IP	I	IP	I	I	n/a	PI	PI	n/a	NI	I	IP	I
Rec. GFCM/2008/1 - Port State measures	PI	IP	n/a	I	PI	I	I	IP	n/a	NI	I	I	I
Rec. GFCM/2006/2 - Closed season dolphinfish fisheries based on fishing aggregation devices (FADs)	IP	n/a	I	I	n/a	n/a	n/a	I	n/a	n/a	I	I	I
Rec. GFCM/2006/3 - On the establishment of 3 Fisheries Restricted Areas	IP	n/a	IP	I	IP	n/a	n/a	n/a	n/a	NI	I	n/a	n/a
Rec. GFCM/2005/1 - Trawl banning below 1000 m	IP	I	n/a	I	n/a	I	n/a	n/a	n/a	NI	I	I	I

I Implemented PI Partly implemented IP Implementation in progress NI Not implemented n/a Not applicable

Status of data and information compliance

	Vessel records (ref. year 2014)	Task 1 (ref. year 2012)*		Port State measure	Dolphin fish (ref. year 2013)	Red Coral (ref. year 2013)	VMS	Aquaculture (ref. year 2013)
Albania	NO	OK	28%	NO	NO	n/a	NO	NO
Algeria	OK	NO		NO	n/a	n/a	NO	NO
Bulgaria	OK	OK	56%	OK	n/a	n/a	OK	OK
Croatia	OK	OK	75%	OK	n/a	OK	OK	OK
Cyprus	OK	OK	63%	OK	n/a	n/a	OK	OK
Egypt	OK	NO		n/a	NO	n/a	NO	NO
France	OK	OK	60%	OK	n/a	OK	OK	NO
Greece	OK	OK	26%	OK	n/a	OK	OK	OK
Israel	NO	OK	5%	n/a	n/a	n/a	n/a	NO
Italy	OK	OK	58%	OK	OK	OK	OK	NO
Japan	OK	n/a		n/a	n/a	n/a	n/a	n/a
Lebanon	OK (>15m only)	NO		OK	n/a	n/a	n/a	NO
Libya	OK	NO		OK	OK	n/a	n/a	NO
Malta	OK	OK	80%	OK	OK	n/a	OK	OK
Monaco	n/a	n/a		n/a	n/a	n/a	n/a	n/a
Montenegro	NO	NO		NO	n/a	NO	NO	OK
Morocco	OK	OK	50%	OK	n/a	n/a	OK	OK
Romania	OK	OK	57%	NO	n/a	n/a	OK	OK
Slovenia	OK	OK	57%	n/a	n/a	n/a	OK	OK
Spain	OK	OK	68%	OK	OK	OK	OK	OK
Tunisia	OK (>15m only)	OK	45%	OK	OK	OK	OK	OK
Turkey	OK	OK	70%	n/a	n/a	n/a	OK	OK
TOTAL COVERAGE	81%	75%		75%	71%	86%	71%	60%

**The Task 1 percentages report the status of the national dataset in terms of fields coverage only, without encompassing any data quality evaluation.*

Model letter of concern for partial non-compliance with GFCM recommendations

Your Excellency,

I have the pleasure to refer to the Agreement establishing the General Fisheries Commission for the Mediterranean of the FAO (GFCM), to which you are a Contracting Party.

I would like to thank you for the additional information provided by your Government regarding the status of implementation of GFCM recommendations, through the clarification process.

In order to ensure the correct implementation of GFCM recommendations, the Compliance Committee has the task of identifying cases of non-compliance by GFCM Contracting Parties. This was endorsed by recommendation GFCM/38/2014/2 “Concerning the identification of non-compliance”, which was adopted by the 38th Session of the Commission. According to the provisions of this recommendation the GFCM, through its Compliance Committee, is to ensure that recommendations in force are correctly implemented and transposed into national legislations in accordance with the GFCM Agreement.

The analysis of the most updated information received from your Government, as examined by the Compliance Committee at its inter-sessional meeting on 29-30 January 2015 (Rome, FAO HQ), indicates that [COUNTRY] is implementing only partly the following recommendations:

- [RECOMMNDATION];
- [RECOMMNDATION];
- [RECOMMNDATION];

While encouraging you to make further efforts, in addition to those you have already deployed, towards the full implementation of the above recommendations, by this letter concern is expressed for the partial non-compliance detected.

Please note that, in line with recommendation GFCM/38/2014/2, [COUNTRY] has the right to respond to the Compliance Committee until 30 days before the next plenary session of the Commission, that is before XX/DD/YYYY, and provide all relevant complementary information, including further information as well as actions planned to rectify the situation, such as the need for technical assistance. To this end, I would be grateful in particular if you could provide me with the timeframe foreseen by your Country to rectify the situation. This will be also brought to the attention of the Commission so that appropriate action can be taken accordingly.

We take this opportunity to thank your Country for its commitment to ensure compliance with GFCM recommendations and we commend your engagement towards GFCM relevant actions.

Please accept the assurances of my highest consideration,