

**Recommendation GFCM/38/2014/2**  
**amending and repealing Recommendation GFCM/34/2010/3 concerning the**  
**identification of non-compliance**

The General Fisheries Commission for the Mediterranean (GFCM),

*RECALLING* that the objective of the Agreement for the establishment of the General Fisheries Commission for the Mediterranean (GFCM Agreement) is to ensure the conservation and sustainable use, at the biological, social, economic and environmental level, of marine living resources in the GFCM area of application;

*RECALLING* that the Food and Agriculture Organization of the United Nations (FAO) Council adopted on 23 June 2001 an International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;

*RECALLING* the terms of reference for the Compliance Committee (CoC);

*CONSIDERING* the need for action to ensure the effectiveness of the GFCM objectives;

*CONSIDERING* the obligation of all contracting parties, cooperating non-contracting parties and non-contracting parties to respect the GFCM conservation and management measures when fishing in the GFCM area of application;

*AWARE* of the necessity for coordinated and timely actions by all contracting parties, cooperating non-contracting parties and non-contracting parties to ensure the enforcement of GFCM conservation and management measures, and of the need to encourage all contracting parties, cooperating non-contracting parties and non-contracting parties to abide by these measures when fishing in the GFCM area of application;

*ADOPTS*, in conformity with Articles 5 b), 8 b) and 13 of the GFCM Agreement, the following recommendation:

1. The GFCM, through its CoC, shall each year:

- (i) Conduct, consistent with sub-paragraphs (iii) and (iv), a process of identification of cases of non-compliance by contracting parties that have not met their obligations under the GFCM Agreement in respect of the GFCM conservation and management measures, in particular, by failing to take the required measures and actions or to exercise effective control according to national rules and regulations to ensure compliance with conservation and management measures by the vessels flying their flag;
- (ii) Conduct, consistent with subparagraphs (iii) and (iv), a process of identification of cases of non-compliance by cooperating non-contracting parties and non-contracting parties that have failed to discharge their obligations under international law to cooperate with the GFCM in the management of marine living resources when fishing in the GFCM area of application, in particular, by failing to take measures or to exercise effective control according to national rules and regulations to ensure that their vessels do not engage in any fishing- or fisheries-related activity that undermines the effectiveness of GFCM conservation and management measures;

- (iii) Review all available information on the status of implementation of GFCM decisions, including, for example catch or effort data and trade information, on the basis of, as appropriate, (i) requests for clarifications; ii) letters of concern; and iii) letters of identification. The standard form of such requests and letters, that will be sent by the GFCM Executive Secretary, shall be adopted by the CoC;
- (iv) Consider all other verifiable information available, including information submitted by non-contracting parties on fishing activities by contracting parties, cooperating non-contracting parties and non-contracting parties. Such information shall reach the GFCM Secretariat at least 60 days before the next GFCM annual session. This deadline does not apply to contracting parties;
- (v) Entrust the GFCM Secretariat with the mandate to consult any source of verifiable information and present a preliminary analysis to the CoC with a view to suggesting a course of action to be followed by the CoC in the identification of cases of non-compliance.
  - 2. The GFCM shall request contracting parties, cooperating non-contracting parties and non-contracting parties concerned to rectify any act or omission identified so as not to diminish the effectiveness of the GFCM management measures, in accordance with the procedure in paragraph 3.
  - 3. When the CoC identifies cases of non-compliance, the GFCM Executive Secretary shall, within 30 working days following the approval of the report of the CoC in which the identification was made, transmit a letter of identification to the relevant contracting party, cooperating non-contracting party or non-contracting party. The GFCM Executive Secretary shall seek to obtain confirmation from the relevant contracting party, cooperating non-contracting party or non-contracting party that it received the letter of identification. The letter of identification shall, *inter alia*, contain the following:
    - a) the reason(s) for the identification with all available supporting evidence and information;
    - b) the right to respond to the GFCM in writing at the latest 60 days before the next session of the CoC with regard to the identification and the invitation to provide any relevant information such as, for example, evidence refuting the identification or, where appropriate, a plan of action to improve the situation and the steps that were taken to rectify it; and,
    - c) in the case of a cooperating non-contracting party or a non-contracting party, an invitation to participate as an observer at the session of the CoC where the issue will be considered.
- 4. Contracting parties and cooperating non-contracting parties are encouraged jointly and individually to request the contracting parties, cooperating non-contracting parties and non-contracting parties concerned to rectify any act or omission identified so as not to diminish the effectiveness of the GFCM management measures. In addition, they shall cooperate to the greatest extent possible throughout the identification process to draw the attention of contracting parties, cooperating non-contracting parties and non-contracting parties to the need to implement in good faith the duty to cooperate in the conservation and management of marine living resources, consistent with international law.
- 5. The CoC shall evaluate the response of contracting parties, cooperating non-contracting parties and non-contracting parties to letters of identification, together with any new information, and propose to the Commission to decide upon one of the following actions:
  - a) the revocation of the identification;

or

- b) the continuation of the identification status of the contracting party, cooperating non-contracting party and non-contracting party. In these cases, the Commission shall recommend appropriate measures aiming at resolving situations of non-compliance, including non-discriminatory trade measures, to deter non-compliance by identified contracting parties, cooperating non-contracting parties or non-contracting parties.
6. The absence of response from the contracting parties, cooperating non-contracting parties and non-contracting parties concerned to the letter of identification within the time limit shall not prevent action from the Commission consistent with paragraph 5 b).