



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



**QUESTIONNAIRE ON THE FISHERIES LEGISLATION IN THE
MEDITERRANEAN AND THE BLACK SEA**

-LaMed PROJECT-
(Component 1)

COUNTRY NAME:

.....

By:

(DATE)

ABSTRACT

This questionnaire on the current legislative status of capture fisheries is aimed at updating the information available related to the existing legal frameworks of the General Fisheries Commission for the Mediterranean Members through the networks of experts established in the Mediterranean and the Black Sea (hereinafter the Region), notably by some of the Food and Agriculture Organization of the United Nations Regional Projects (AdriaMed, CopeMed, EastMed, MedSudMed).

After an overview of the capture fisheries legal framework, it focuses on five main issues: (i) access regimes to fisheries resources; (ii) conservation and management measures; (iii) monitoring, control and surveillance; (iv) enforcement procedures and sanctions. It concludes with the identification of current priority issues faced by the Members.

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ABBREVIATIONS AND ACRONYMS

COC	Compliance Committee
FAO	Food and Agriculture Organization of the United Nations
GFCM	General Fisheries Commission for the Mediterranean
IUU	Illegal, Unreported and Unregulated
MCS	Monitoring, control and surveillance
RFMOs	Regional Fisheries Management Organizations
SCESS	Sub-Committee on Economic and Social Sciences
VMS	Vessel Monitoring System

BACKGROUND

The GFCM has, since its foundation, taken into due consideration the legal issues related to the conservation of resources and management measures aimed at ensuring the sustainable utilization of fishery resources. In particular, many GFCM recommendations regard specifically the development and establishment by the States of the appropriate institutional legal framework defining access to the fisheries resources and fishing grounds as well as the implementation of management measures and the activities on Monitoring, Control and Surveillance.

In this regard, under the aegis of the FAO CopeMed Project¹, a study was undertaken in 2001 on the fisheries legislative framework of the Western Mediterranean coastal states. As a follow-up on this work, the GFCM, with support from FAO's FishCode and Development Law Service, commissioned a comparative study² covering the entire Mediterranean Basin that focused on three issues, namely: the access regimes to fisheries resources, the management of fishing effort and fishing capacity and the monitoring, control and surveillance of fishing activities. Its purpose was to provide fisheries managers with information on the principal measures adopted in the region and to identify areas where harmonization should be sought, particularly in relation to shared stocks.

During the 29th Session of the GFCM (Rome, Italy, February 2005), the Commission adopted the *General Guidelines for a GFCM Control and Enforcement Scheme*³ whose aim was to bring a high degree of compliance with relevant conservation measures, legal certainty and security for the vessel concerned. In 2007, the GFCM created the Compliance Committee (CoC) in order "to review compliance with conservation and management measures (...)" as well as "the implementation of measures on monitoring, control, surveillance, and enforcement adopted by the Commission (...)." ⁴ However, the minimal reporting by many Members on the status of implementation of GFCM decisions, prior to the 34th Session (Athens, Greece, April 2010)⁵, did not allow for the GFCM Secretariat to conduct a thorough analysis of their effectiveness.

This situation, as well as issues of growing concern identified in the GFCM Region during recent Workshops and Meetings (*i.e.* artificial reefs, jellyfish blooming, excessive by-catch and discarding, red coral, etc.) demonstrated that the studies undertaken in the past need now to be completed and updated. The LaMed Project (Component 1) has been launched to meet this objective, with also the aim to assess strengths, weaknesses, gaps and constraints for regional cooperation. This questionnaire has therefore been conceived to provide with updated information on the fisheries legal framework of GFCM Members. Emphasis has been put on the enforcement of the relevant GFCM Recommendations by Members⁶. Responses will be presented during a meeting (to be held during the year), as a basis for discussion, particularly for identifying priority issues faced in the Region and, as appropriate, areas of convergence between fisheries legislation across the countries. The desired output from this whole project is to elaborate a reference publication for policy-makers, administrators and fisheries managers.

¹ See Cacaud, P. *Étude comparative sur la réglementation en matière de pêches maritimes dans les pays de la Méditerranée occidentale participant au projet CopeMed* (available at: http://www.faocopemed.org/old_copemed/vldocs/0000720/etude_regl.pdf).

² Cacaud, P. Fisheries laws and regulations in the Mediterranean: a comparative study. *Studies and Reviews. General Fisheries Commission for the Mediterranean*. No. 75. Rome, FAO. 2005. 40p. (available at: <ftp://ftp.fao.org/docrep/fao/008/y5880e/y5880e00.pdf>).

³ See Res. GFCM/30/2005/2 (Appendix H) (available at: <ftp://ftp.fao.org/docrep/fao/008/a0031e/a0031e00.pdf>).

⁴ See Rule X (3 (a) (b)) of the GFCM Rules of Procedure.

⁵ See Report of the GFCM 34th Session, p. 16 (available at: <http://151.1.154.86/GfcmWebSite/docs/Reports/GFCM34e.pdf>).

⁶ See Annex. The 2005-2010 Recommendations are available at: <http://www.gfcm.org/gfcm/topic/16100/en>. Earlier ones can be consulted on the e-Compendium.

EXPLANATORY NOTES

- Please note that the term “*legislation*” in the questionnaire refers to any law, regulation, amendment of text or other instrument in force in the country regarding the subject matter considered.
- Please provide for each question the exact reference and/or provision within the legislation (e.g.: Fishery Law No. 3288 of 1986, Art. 31).
- Please attach, when possible, the relevant legislation specified above.
- If and where appropriate, please specify the “level” of the legislation: national, sub-national (e.g. autonomous community, région, etc.), any other level (e.g. European).
- For the purposes of the questionnaire and given the differences existing among the GFCM Members regarding this issue, “*commercial*” fisheries encompass both large-scale and small-scale fisheries. However, if and where appropriate, feel free to specify which one of these categories of fisheries is actually concerned by the legislation:
 - Industrial/Large-Scale fisheries(I);
 - Artisanal/Small-Scale fisheries (A);
 - Any other categorization provided for by the legislation.*
- For the purposes of the questionnaire, “*recreational*” fisheries also encompasses “sport fishing” activities. However, if and where appropriate, feel free to specify which one of these categories is actually concerned by the legislation:
 - Recreational fishing (R);
 - Sport fishing (S);
 - Any other categorization provided for by the legislation.*
- Question 46: the term “import” should be here understood in its broad sense and not only in the trade context. The fact of entering the waters with illegally taken fish in the waters under the jurisdiction of the coastal state would qualify as “import”.

If you feel that clarification is needed (or that a response is more complex than a *Yes/No* response), please provide notes related to specific questionnaire questions.

In any case, do not hesitate to contact the Secretariat for any further explanation:

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NOTE: PLEASE READ THE EXPLANATORY NOTES BEFORE FILLING IN THE QUESTIONNAIRE

1. OVERVIEW OF THE FISHERIES LEGAL FRAMEWORK

1.1 Definition and use of terms, objective, scope and application

1. If applicable, please provide the definition of the following terms:

National waters:

Living aquatic resources:

Fishing:

Commercial fishing:

Artisanal fishing:

Fishing vessel:

National vessel:

Foreign vessel:

Fishing gear or equipment:

Operator:

Owner:

2. Provide the objectives used by lawmakers to underpin decisions taken under the legislation (e.g. ensuring management measures are based on the best scientific evidence available; applying a precautionary approach to the management and development of aquatic living resources; protection of the ecosystem; minimization of pollution, etc.)

3. Does the legislation apply to national fishing vessels while operating outside of waters under national jurisdiction?

Yes	No

4. If “Yes”, does the legislation require national fishing vessels to obtain an authorization prior to operating on the high seas?

Yes	No

5. Have fisheries management plans been established in your country? Specify for which fisheries.

Yes	No

6. Is there any legislation that indirectly, but significantly, affects the management of marine capture fisheries? For example, legislation on:
- endangered species
 - export/import/trade
 - biodiversity
 - oceans policy
 - marine park / sanctuary / reserves
 - port management
 - coastal management
 - other?

Yes	No

9. If “Yes”, please give the titles of the indirectly-related legislation that have the most impact on marine capture fisheries management?

10. Does the legislation require management decisions to be based on information/advice coming from

- biological analyses or stock assessments
- economic analyses
- social impact analyses
- traditional knowledge of the resources and their habitats
- monitoring and enforcement options

Yes	No

- other information?

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11. Does the legislation provide set up any fixed schedule/fixed timeframe, for going through the steps for implementing management measures?

Yes	No

1.2 Administrative/institutional framework

12. Where administrative authority over the marine fisheries sector is divided among various administrative units or other entities, specify the nature of the powers delegated or devolved to such units or entities and provide reference to relevant legislation.

13. Describe existing mechanisms designed to involve local fishermen communities and other interested parties in the decision-making process (e.g. formulation of fisheries policy, fisheries management plans and fisheries regulations, etc). Where an advisory body has been established, specify its constitution and the extent of its powers.

14. Does the legislation set out rules on the establishment of fishers associations/organizations?

Yes	No

15. Does the legislation allow for the costs associated with managing these fisheries resources to be recovered using:

- license fees from participants within the same fishery sector
- license fees from participants of different sectors

Commercial		Recreational	
Yes	No	Yes	No

- resource rentals
- other sources?

16. Is conservation and management fisheries legislation clearly documented and easily available to the public? (*if Yes, please specify how: official gazette, pamphlet, fishers newsletter, internet, etc.*)

Yes	No

1.3 Implementation of international instruments

17. Which international fisheries instruments your country is party to?

2. ACCESS REGIMES TO FISHERIES RESOURCES

18. Has your country concluded any fisheries agreement? Specify the number and type of fishing vessels covered by such agreements. Identify all conservation and management measures agreed upon in the framework of such agreements.

19. Describe the legal regime governing access to marine resources occurring within the national waters by both national and foreign fishing vessels. Where a licensing system is established, specify the activities concerned, the requirements for the granting (e.g. prerequisites to application, application and issuance procedure, duration, conditions of transfer, license fees) and the renewing of fishing licenses or permits as well as the basis upon which such licenses or permits may be suspended or revoked.

	Yes	No
20. Does the legislation set minimum requirements for safety at sea prior to the issuance of any fishing licence? (e.g. to ensure the safe use of the equipment and fishing gears, the general safety on board the vessel, as well as the presence of lifesaving equipment, etc. If Yes, please specify and list them)		

3. CONSERVATION AND MANAGEMENT MEASURES

3.1. Fishing capacity

21. Refer to any measure designed to control fishing capacity.

22. In particular, how has the following GFCM Recommendation been incorporated into the legislation?

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Rec. GFCM/34/2010/2 on the management of fishing capacity		

3.2. Fishing effort

23. Refer to any measure designed to control fishing effort: restriction on the number of licenses to be issued, quota system (individual quota, individual transferable quota), days-at-sea programme etc. List the various fisheries that are subject to.

24. In particular, how have the following GFCM Recommendations been incorporated into the legislation?

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Res. GFCM/33/2009/1 On the management of demersal fisheries: reduction of bottom-trawling fishing effort by a minimum of 10 percent in all GFCM areas		
Rec. GFCM/27/2002/1 on the management of selected demersal		

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
and small pelagic species		
Rec. GFCM/33/2009/1 On the establishment of a Fisheries Restricted Area in the Gulf of Lions to protect spawning aggregations and deep sea sensitive habitats		

3.3. Area and time restrictions

25. Have prohibited fishing areas or fishing areas where the use of certain fishing gear is prohibited been created (e.g. areas where trawling is prohibited (depth), areas designed to protect artisanal fishing from industrial operations, protection of spawning grounds)? How efficient are these measures?

26. Have artificial reefs and/or fish aggregating devices been established in your country? Describe the legal regime governing the establishment and exploitation of these artificial structures.

27. Mention any other conservation and management measure, in particular those relating to closed seasons.

28. Identify all legal instruments enabling competent authorities to create marine protected areas (e.g. marine parks, sanctuaries, fisheries reserves).

29. Have marine parks or other marine protected areas already been created in your country? In particular specify if transboundary marine protected areas have been established?

30. Describe the decision-making process governing the establishment of marine parks or other marine protected areas. Are local authorities and communities (e.g. fishermen communities) involved in the decision-making process? Provide details. Identify which authority makes the final decision on this issue.

31. Where marine parks or other marine protected areas have already been created, specify whether the park or protected area by-laws prohibit or restrict fishing activities therein. Provide details for each marine park or marine protected area. In particular, indicate if the exercise of customary fishing rights is authorized therein?

32. Identify any other measure designed to protect and conserve biological diversity and marine ecosystems.

33. How have the following GFCM Recommendations been incorporated into the legislation?

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Rec. GFCM/2005/1: prohibition of the use of towed dredges and trawl nets fisheries at depths beyond 1000 m of depth		
Rec.GFCM/30/2006/2: prohibition of Dolphin fish fisheries using		

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Rec. GFCM/2005/1: prohibition of the use of towed dredges and trawl nets fisheries at depths beyond 1000 m of depth		
aggregating devices (FADs) from 1 st of January to 14 th of August of each year		
Rec.GFCM/30/2006/3: Fishing with towed dredges and bottom trawl nets shall be prohibited in the following areas: Lophelia reef off Capo Santa Maria di Leuca, the Nile delta area cold hydrocarbon seeps, the Eratosthemes Seamount		

3.4. Protected Species

34. Have any species of fish or other aquatic organisms been declared as endangered species or threatened species? Please specify which one. Describe what measures have been adopted to protect these species and allow them to recover.

35. Is fishing of certain species of fish or other aquatic organisms permanently prohibited in your country (e.g. marine mammals)?

3.5. Fishing Gears and Methods

36. Identify all measures regulating fishing gear (net mesh sizes and length, gear specifications, number of nets or other fishing gear per fishing vessel, etc.). Provide the list of prohibited fishing gear. In particular, indicate if the use of drift nets is strictly prohibited or subject to certain conditions.

37. Identify prohibited fishing methods.

38. Is the introduction of new fishing techniques or new fishing gears subject to a specific legal regime (authorization, trial period, etc.)? In particular, indicate if the use of new fishing techniques or new fishing gears is subject to an environmental impact assessment.

39. In particular, how have the following GFCM Recommendations been incorporated into the legislation?

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Rec. GFCM/22/1997/1: prohibition of taking on board or using for fishing one or more driftnets whose individual or total length is more than 2.5 km. Obligation to keep the net attached to the vessel if longer than 1 km. Possibility for the vessel to detach itself from the net within the 12 mile coastal band, providing constant observation		
Rec. GFCM/33/2009/2: implementation of a minimum 40 mm square mesh codend or a diamond mesh size of at least 50 mm for all trawling activities exploiting demersal stocks when operating in the GFCM Area		

3.6. Minimum sizes

40. Indicate if major commercial species' minimum sizes are regulated? Provide details for each of such species.

3.7. By-catch

41. Does the current legislation address the issue of incidental catch? Provide details.

3.8. Recreational fisheries

42. Are recreational fisheries a significant activity in your country? Describe the legal regime governing the exercise of such an activity (e.g. licensing system, gear restrictions, daily-bag limits, etc.)

4. MONITORING, CONTROL AND SURVEILLANCE
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43. Please specify the legislation in force regarding Monitoring, Control and Surveillance:

44. In particular, how have the following GFCM Recommendations been incorporated into the legislation?

Reference to GFCM Recommendation	Legislation, if applicable	Comments : progress on incorporation, constraints
Rec. GFCM/34/2010/1 on the establishment of a GFCM LogBook		
Rec. GFCM/33/2009/7 on the minimum standards for the establishment of a Vessel Monitoring System (VMS) in the GFCM area		
Rec. GFCM/33/2009/6 on the establishment of a GFCM record of vessels over 15 meters		
Rec. GFCM/33/2009/8 on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area		
Rec. GFCM/32/2008/1 on the regional scheme on port state measures to combat IUU fishing in the GFCM area and specially regarding:		
Integration and cooperation		
Cooperation and exchange of information		
Designation of Ports		
Prior Notice of Entry into Port		
Port Entry Authorization		
Denial of use of port		
Withdrawal of denial of use of port		
Non-authorized entry		
Inspections (see also Annex B, C and D)		

Role of the flag State		
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45. Indicate if enforcement officers are authorized to seize prohibited or non-regulatory fishing gear and fish caught in the commission of an offense. Describe how seized fishing gear and catch are disposed of under the relevant legislation (e.g. sale of catch, destruction, etc.)

Yes	No

46. Which government agency(ies) is/are responsible for carrying out port inspections?

47. Does the legislation provide for any anti-corruption initiative and mechanism?

Yes	No

5. ENFORCEMENT PROCEDURES AND SANCTIONS
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5.1. Procedure

48. What are the dispute settlement mechanisms provided by the existing legal framework (to solve disputes among fishermen and disputes between fishermen and other uses?)

49. In terms of conflict resolution, what fisheries management tools are being used among user groups? (*e.g. zoning of different areas for different users, re-allocation of fishing rights, limited access to certain areas for certain types of fishers, etc.*)

50. Is there any specific training regarding fisheries legislation for the members of the judiciary?

Yes	No

51. Does the legislation include any evidentiary provision specific to fisheries offences? (*i.e. reversal of onus of proof, certificate evidence, etc. If Yes, please specify*)

Yes	No

5.2. Sanctions

52. Does the legislation provide for penalty for non-compliance?

Yes	No

53. If Yes, what are the sanctions provided for by the existing legal framework (including but not limited to fisheries legislation) to sanction violations of any regulatory measures?

54. Does the existing legal framework provide for any administrative sanctions such as suspension or revocation of fishing licenses?

Yes	No

55. Does the country create an offense to import⁷ fish that had been taken illegally from the waters of another country? (“*long-arm approach to enforcement*”⁸)

Yes	No

56. If “Yes”, does any case have been prosecuted in the port/coastal state?

57. Does the legislation punish offenses committed in the high-sea by national fishing vessels? (*if Yes, how?*)

Yes	No

58. Over the last five (5) years, what is happening to the number of offences that are taking place?

59. Over the last five (5) years, what is happening to detection efforts (*e.g. at sea patrols, port monitors, etc.*)?

Increasing	Decreasing	Unchanged

60. If possible, how many inspections were carried out in fishing ports during 2009 and 2010?

-How many resulted in evidence of IUU fishing?

-How many resulted in legal action?

⁷ See Explanatory Notes, *supra*, p. 6.

⁸ As provided in the US *Lacey Act* which makes it illegal to take part in the trade of fish taken in violation of any U.S. or Indian tribal law, treaty, or regulation as well as the trade of any of these items acquired through violations of foreign law.

-How many resulted in non-legal action (e.g. settlement)?

-How many resulted in deterrent measures (e.g. trade sanctions)?

61. How many inspections of non national fishing vessels undertaken in 2009 and 2010 resulted in notifications to:

(i) the flag State?

(ii) the competent RFMO?

(iii) the competent regional economic integration organization?

62. Does it appear that the funding provided for this agency allows it to enforce all fisheries legislation?

63. Does it appear that the penalties for non-compliance are effective, dissuasive and proportionate enough to discourage further offence of the same kind?

Yes	No

6. PRIORITY ISSUES

64. Which are the main offences committed under the legislation and/or priority problems faced by the country for its effective implementation, for each of the two following categories:

Commercial fisheries:

Recreational fisheries:

GFCM Recommendations⁹**Conservation and management measures:**

- Rec. GFCM/22/1997/1 on the limitation of the use of driftnets in the Mediterranean.
- Rec. GFCM/27/2002/1 on the management of selected demersal and small pelagic species.
- Rec. GFCM/2005/1 on the management of certain fisheries exploiting demersal and deepwater pelagic.
- Rec. GFCM/30/2006/2 on the establishment of a closed season for the dolphinfish fisheries based on fishing aggregation devices (FADs).
- Rec. GFCM/30/2006/3 on the establishment of fisheries restrictive areas in order to protect the deep sea sensitive habitats.
- Rec. GFCM/33/2009/1 on the management of demersal fisheries.
- Rec. GFCM/33/2009/1 on the establishment of a Fisheries Restricted Area in the Gulf of Lions to protect spawning aggregations and deep sea sensitive habitats.
- Rec. GFCM/33/2009/2 on a minimum mesh size in the codend of demersal trawls nets.
- Rec. GFCM/34/2010/2 on the management of fishing capacity.

Monitoring, control and surveillance:

- Rec. GFCM/2008/1 on a regional scheme on port states measures to combat illegal unreported and unregulated fishing in the GFCM.
- Rec. GFCM/33/2009/6 concerning the establishment of a GFCM record of vessels over 15 meters authorized to operate in the GFCM area amending the Recommendation GFCM/2005/2.
- Rec. GFCM/33/2009/7 concerning the minimum standards for the establishment of a Vessel Monitoring System (VMS) in the GFCM area.
- Rec. GFCM/33/2009/8 on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area, amending Recommendation GFCM 2006/4.
- Rec. GFCM/34/2010/1 concerning the establishment of a GFCM Logbook.

⁹ The 2005-2010 Recommendations are available on the GFCM website : <http://www.gfcm.org/gfcm/topic/16100/en>. Earlier ones can be consulted on the e-Compendium.