

## Fourteenth round of Informal Consultations of States Parties to the United Nations Fish Stocks Agreement – inputs by the General Fisheries Commission for the Mediterranean and the Black Sea of the FAO (GFCM)

This contribution outlines the experience of the General Fisheries Commission for the Mediterranean and the Black Sea of the FAO (GFCM) in conducting performance reviews. At the outset, It is worth mentioning that the first GFCM performance review was carried out between 2009 and 2011, which eventually led to an amendment to the Agreement for the establishment of the GFCM (the GFCM Agreement) and the rules of procedure/financial regulations of the Commission. Currently, a second GFCM performance review is ongoing. Information provided in this file is broken down under relevant entries on the basis of the letter received by UN-DOALOS. Additional sub-entries have been added, where necessary, for the sake of clarity.

### 1. The scope of GFCM performance reviews and their importance and role for the implementation of the UNFSA

#### a) The scope of the first GFCM performance review (2009-2011)

**For the first GFCM performance review**, it was agreed that the Commission would rely on the common criteria adopted at the sixth round of informal consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA). These criteria were tailored to the mandate of the GFCM which includes aquaculture and are tantamount to those used by other RFMOs in the context of their performance reviews.

**Table 1:** Criteria for first review of the GFCM performance

N	AREA	General criteria	Detailed criteria
1	<i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> <li>• Status of major fish stocks under the purview of the GFCM in relation to maximum sustainable yield or other relevant biological standards.</li> <li>• Trends in the status of those stocks.</li> <li>• Status of species that belong to the same ecosystems as, or are associated with or dependent upon, the major target stocks (“non-target species”).</li> <li>• Trends in the status of those species.</li> </ul>
		Data collection and sharing	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has agreed formats, specifications and timeframes for data submission, taking into account the United Nations Fish Stock Agreement (UNFSA) Annex I.</li> <li>• Extent to which GFCM members and cooperating non-members, individually or through the GFCM, collect and share complete and accurate fisheries data concerning target stocks and non-target species and other relevant data in a timely manner.</li> <li>• Extent to which fishing data and fishing vessel data are gathered by the GFCM and shared among members and other RFMOs.</li> <li>• Extent to which the GFCM is addressing any gaps in the collection and</li> </ul>

			sharing of data as required.
		Quality and provision of scientific advice	<ul style="list-style-type: none"> <li>• Extent to which the GFCM receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.</li> </ul>
		Adoption of conservation and management measures	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted conservation and management measures for both target stocks and non-target species that ensures the long-term sustainability of such stocks and species and are based on the best scientific evidence available.</li> <li>• Extent to which the GFCM has applied the precautionary approach as set forth in UNFSA Article 6 and the Code of Conduct for Responsible Fisheries Article 7.5, including the application of precautionary reference points.</li> <li>• Extent to which the GFCM has adopted and is implementing effective rebuilding plans for depleted or overfished stocks.</li> <li>• Extent to which the GFCM has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries.</li> <li>• Extent to which the GFCM has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fisheries on living marine resources and marine ecosystems.</li> <li>• Extent to which the GFCM has adopted measures to minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques.</li> </ul>
		Capacity management	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has identified fishing capacity levels commensurate with long-term sustainability and optimum utilization of relevant fisheries.</li> <li>• Extent to which the GFCM has taken actions to prevent or eliminate excess fishing capacity and effort.</li> </ul>
		Compatibility of management measures	<ul style="list-style-type: none"> <li>• Extent to which measures have been adopted as reflected in UNFSA Article 7.</li> </ul>
		Fishing allocations and opportunities	<ul style="list-style-type: none"> <li>• Extent to which the GFCM agrees on the allocation of allowable catch or levels of fishing effort, including taking into account requests for participation from new members or participants as reflected in UNFSA Article 11.</li> </ul>
2	Compliance and enforcement	Flag State duties	<ul style="list-style-type: none"> <li>• Extent to which GFCM members are fulfilling their duties as flag States under the treaty establishing the GFCM, pursuant to measures adopted by the GFCM, and under other international instruments, including, <i>inter alia</i>, the 1982 Law of the Sea Convention, the UNFSA and the 1993 FAO Compliance Agreement, as applicable.</li> </ul>
		Port State measures	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted measures relating to the exercise of the rights and duties of its members as port States, as reflected in UNFSA Article 23 and the Code of Conduct for Responsible Fisheries Article 8.3.</li> <li>• Extent to which these measures are effectively implemented.</li> </ul>
		Monitoring,	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted integrated MCS measures (e.g.,</li> </ul>

		control and surveillance (MCS)	<p>required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes).</p> <ul style="list-style-type: none"> <li>• Extent to which these measures are effectively implemented.</li> </ul>
		Follow-up on infringements	<ul style="list-style-type: none"> <li>• Extent to which the GFCM, its members and cooperating non-members follow up on infringements to management measures.</li> </ul>
		Cooperative mechanisms to detect and deter non-compliance	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., compliance committees, vessel lists, sharing of information about non-compliance).</li> <li>• Extent to which these mechanisms are being effectively utilized.</li> </ul>
		Market-related measures	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted measures relating to the exercise of the rights and duties of its members as market States.</li> <li>• Extent to which these market-related measures are effectively implemented.</li> </ul>
3	<i>Decision-making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> <li>• Extent to which GFCM has transparent and consistent decision-making procedures that facilitate the adoption of conservation and management measures in a timely and effective manner.</li> </ul>
		Dispute settlement	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has established adequate mechanisms for resolving disputes.</li> </ul>
4	<i>International cooperation</i>	Transparency	<ul style="list-style-type: none"> <li>• Extent to which the GFCM is operating in a transparent manner, as reflected in UNFSA Article 12 and the Code of Conduct for Responsible Fisheries Article 7.1.9.</li> <li>• Extent to which GFCM decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are made publicly available in a timely fashion.</li> </ul>
		Relationship to cooperating nonmembers	<ul style="list-style-type: none"> <li>• Extent to which the GFCM facilitates cooperation between members and nonmembers, including through the adoption and implementation of procedures for granting cooperating status.</li> </ul>
		Relationship to non-cooperating non-members	<ul style="list-style-type: none"> <li>• Extent of fishing activity by vessels of non-members that are not cooperating with the GFCM, as well as measures to deter such activities.</li> </ul>
		Cooperation with other GFCMs	<ul style="list-style-type: none"> <li>• Extent to which the GFCM cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.</li> </ul>
		Special requirements of developing States	<ul style="list-style-type: none"> <li>• Extent to which the GFCM recognizes the special needs of developing States and pursues forms of cooperation with developing States, including with respect to fishing allocations or opportunities, taking into account UNFSA Articles 24 and 25, and the Code of Conduct of Responsible Fisheries Article 5.</li> <li>• Extent to which GFCM members, individually or through the GFCM, provide relevant assistance to developing States, as reflected in UNFSA Article 26.</li> </ul>
5	<i>Financial and administrative issues</i>	Availability of resources for GFCM activities	<ul style="list-style-type: none"> <li>• Extent to which financial and other resources are made available to achieve the aims of the GFCM and to implement the GFCM's decisions.</li> </ul>
		Efficiency and cost-effectiveness	<ul style="list-style-type: none"> <li>• Extent to which the GFCM is efficiently and effectively managing its human and financial resources, including those of the Secretariat.</li> </ul>
		Cooperation with other GFCMs	<ul style="list-style-type: none"> <li>• Extent to which the GFCM cooperates with other GFCMs, including through the network of Regional Fishery Body Secretariats.</li> </ul>
		Special requirements of	<ul style="list-style-type: none"> <li>• Extent to which the GFCM recognizes the special needs of developing States and pursues forms of cooperation with developing States,</li> </ul>

	developing States	<p>including with respect to fishing allocations or opportunities, taking into account UNFSA Articles 24 and 25, and the Code of Conduct of Responsible Fisheries Article 5.</p> <ul style="list-style-type: none"> <li>• Extent to which GFCM members, individually or through the GFCM, provide relevant assistance to developing States, as reflected in UNFSA Article 26.</li> </ul>
	Availability of resources for GFCM activities	<ul style="list-style-type: none"> <li>• Extent to which financial and other resources are made available to achieve the aims of the GFCM and to implement the GFCM's decisions.</li> </ul>
	Efficiency and cost-effectiveness	<ul style="list-style-type: none"> <li>• Extent to which the GFCM is efficiently and effectively managing its human and financial resources, including those of the Secretariat.</li> </ul>

## b) The scope of the second GFCM performance review (2018 - ongoing)

**For the second GFCM performance review**, it was recommended that a new set of criteria be used with a view to take stock of developments that occurred since 2011. These criteria, as adopted by the Commission in its last annual session, revolve around two main domains (i.e. legal and institutional and scientific and technical):

**Table 2:** Criteria for the second review of the GFCM performance

AREA	General criteria	Detailed criteria
<i>Legal and institutional</i>	Decision-making	<ul style="list-style-type: none"> <li>• Extent to which the GFCM is operating in a transparent and timely manner towards the adoption of decisions.</li> <li>• Extent to which the GFCM subsidiary bodies are providing scientific advice to the decision-making process and this is being taken into account.</li> <li>• Extent to which GFCM decisions - and scientific advice upon which decisions are taken - are made publicly available.</li> <li>• Extent to which the objection procedure is legally sound.</li> <li>• Extent to which the GFCM role is promoted within FAO.</li> </ul>
	Involvement of non-Contracting Parties	<ul style="list-style-type: none"> <li>• Extent to which the GFCM facilitates cooperation between contracting parties and non-contracting parties, including through the adoption and implementation of procedures for granting and reviewing cooperating status.</li> <li>• Extent to which the cooperating status is instrumental to enable accession to the GFCM Agreement.</li> <li>• Extent of GFCM responsiveness in detecting potential fishing activities by vessels of non-contracting parties, including measures in place to report these activities to flag States and GFCM contracting parties.</li> </ul>
	Cooperation with RFMOs and other relevant organizations	<ul style="list-style-type: none"> <li>• Extent to which the GFCM cooperates with other RFMOs, particularly those in close geographical proximity.</li> <li>• Extent to which the GFCM cooperates with other international organizations, including through formal cooperation agreements.</li> <li>• Extent to which GFCM is represented in relevant international and regional fora with a view to foster a coordinated approach to common issues and priorities, particularly United Nations fora, and report salient outcomes to contracting parties.</li> <li>• Extent to which GFCM ensures regular dialogue and exchange of information in the context of relevant global processes (e.g. submission of reports and information to UN DOLALOS and FAO).</li> </ul>
	Implementation of a sub-regional approach	<ul style="list-style-type: none"> <li>• Extent to which Mediterranean and Black Sea countries are involved in the work of the GFCM in the remit of established subsidiary bodies of the Commission.</li> <li>• Extent to which arrangements are in place to ensure the implementation of a sub-regional approach, including hosting country agreements for hosting sub-regional</li> </ul>

		<p>units of the GFCM.</p> <ul style="list-style-type: none"> <li>• Extent to which the WGBS is representative of the countries in the Black Sea region and whether their involvement could be furthered.</li> </ul>
	Financial and administrative issues	<ul style="list-style-type: none"> <li>• Extent to which financial and other resources are made available to achieve the aims of the GFCM and to implement the Commission's decisions.</li> <li>• Extent to which FAO rules and procedures are affecting the GFCM in fulfilling its duties.</li> <li>• Extent to which the GFCM get access to extra-budgetary funds, including in the context of major international projects (e.g. GEF funds).</li> <li>• Extent to which the schedule and organization of GFCM meetings could be improved.</li> </ul>
	Compliance and enforcement	<ul style="list-style-type: none"> <li>• Extent to which the GFCM carries out a regular evaluation of compliance with all decisions in place.</li> <li>• Extent to which the GFCM is able to identify situations of noncompliance by contracting parties and non-contracting parties.</li> <li>• Extent to which the GFCM has adopted integrated MCS measures (e.g. use of VMS, observers, catch documentation schemes, transshipment, boarding and inspection schemes).</li> <li>• Extent to which the GFCM has adopted measures relating to the exercise of the rights and duties of the port States, as reflected in the FAO Port State Agreement.</li> <li>• Extent to which the GFCM has adopted measures relating to the exercise of the rights and duties of its CPCs as market States.</li> <li>• Extent to which the GFCM recognizes the special needs of developing States and pursues forms of cooperation with developing States, including via the provision of technical assistance.</li> <li>• Extent to which GFCM contracting parties, individually, provide relevant assistance to developing States.</li> </ul>
<i>Scientific and technical</i>	Status of living marine resources in the GFCM area of application	<ul style="list-style-type: none"> <li>• Status of major fish stocks under the purview of the GFCM in relation to maximum sustainable yield or other relevant biological standards and trends in the status of those stocks.</li> <li>• Status of species that belong to the same ecosystems as, or are associated with or dependent upon, the major target stocks (hereinafter “non-target species”) and trends in the status of those species.</li> <li>• Extent to which the GFCM receives and/or produces best scientific information relating to living marine resources and marine ecosystems.</li> </ul>
	Data collection and sharing	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has agreed formats, specifications and timeframes for timely and accurate data submission.</li> <li>• Extent to which GFCM contracting parties and concerned non-contracting parties collect and share fisheries data concerning target stocks and non-target species and other relevant data through the GFCM Secretariat, including socio-economic data.</li> <li>• Extent to which data and information on fishing vessels are gathered by the GFCM and made publicly available.</li> <li>• Extent to which the GFCM has set security and confidentiality standards and rules to protect data.</li> </ul>
	Adoption of management measures	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted decisions for both target stocks and non-target species that ensure the long-term sustainability of such stocks and species, based on the best scientific evidence available.</li> <li>• Extent to which the GFCM has applied the precautionary approach, including the application of precautionary reference points, and the ecosystem approach to fisheries management.</li> <li>• Extent to which the GFCM has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fisheries on living marine</li> </ul>

	<p>resources and marine ecosystems.</p> <ul style="list-style-type: none"> <li>• Extent to which the GFCM has adopted and is implementing effective management plans to rebuild depleted or overfished stocks.</li> <li>• Extent to which the GFCM has moved towards the adoption of management measures for previously unregulated fisheries, including new fisheries.</li> <li>• Extent to which the GFCM has adopted measures to minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species.</li> </ul>
Capacity management	<ul style="list-style-type: none"> <li>• Extent to which the GFCM has identified fishing capacity levels commensurate with long-term sustainability and optimum utilization of relevant fisheries.</li> <li>• Extent to which the GFCM has taken actions to prevent or eliminate excess fishing capacity and effort.</li> <li>• Extent to which GFCM regularly monitors the levels of fishing capacity and fishing effort.</li> </ul>
Fishing allocations and opportunities	<ul style="list-style-type: none"> <li>• Extent to which the GFCM agrees on the allocation of allowable catch or levels of fishing effort.</li> </ul>
Aquaculture, including interactions with fisheries	<ul style="list-style-type: none"> <li>• Status of aquaculture production (marine).</li> <li>• Trends in the status of aquaculture production (marine).</li> <li>• Extent to which the GFCM provides technical assistance on aquaculture (marine and inland).</li> <li>• Extent to which the GFCM monitors markets and trade in aquaculture products.</li> <li>• Extent to which the GFCM ensures the interactions between aquaculture and fisheries, including spatial interactions in the context of marine spatial planning.</li> <li>• Extent to which the GFCM contributes to national priorities in the development of sustainable aquaculture.</li> <li>• Extent to which the GFCM has defined and applied appropriate indicators for sustainable development of aquaculture.</li> <li>• Extent to which the GFCM has harmonized/facilitated processes relating to aquaculture licensing.</li> </ul>

### c) The importance and role of GFCM performance reviews in relation to the implementation of the UNFSA

The UNFSA contains a set of general principles for the conservation and management of fisheries while at the same time elaborating on flag State duties, port State measures, transparency in RFMOs and recognition of the special requirements of developing States, inter alia. Having regard to the features of the Mediterranean and Black Sea region, where the fisheries sector plays an important role to secure livelihood, food security and sustainable development, the GFCM has multiplied its efforts to elaborate sound management measures on the basis of the best available scientific information. In this regard, the evaluation of GFCM performance has been a driver to improve upon the work on the Commission in areas such as the collection, analysis and dissemination of information on the status and trends of fisheries, ecosystems and marine environment, the transparent provision of the scientific advice, the application of the precautionary approach and the fight against IUU fishing, consistent with relevant provisions in the UNFSA.

As a result, the GFCM has stepped up its efforts to adopt multiannual and adaptive management plans for relevant fisheries in the region. This has been coupled with advancements in the protection of marine

ecosystems and the mitigation of negative anthropogenic effects on fisheries. Even in the fight against IUU fishing, dramatic improvements has been recorded thanks to the performance review as the GFCM now implements joint inspection schemes in select high-sea areas and is in the process of establishing a regional VMS. Overall, it can be maintained that the performance review has been decisive for the GFCM to better implement the UNFSA.

## 2. The process and structure of GFCM performance reviews, including in relation to independent evaluation, participation, transparency, accountability and periodicity

### a) The First GFCM Performance Review (2009-2011)

The steps for the preparation undertaking of the first GFCM performance review included the contracting of an independent panel of experts (one legal expert, one fisheries expert and one aquaculture expert), the evaluation of GFCM performance by this panel on the basis of relevant information, consultations with GFCM CPCs and the preparation/submission of a report with main recommendations to improve the functioning of the GFCM. This report was presented to the 35<sup>th</sup> annual session of the Commission for consideration and action

With a view to underpin transparency and accountability, while respecting the independent role of experts, the Commission decided that a task force would be established to build upon the recommendations by the panel. This task force was conceived as an open tool enabling broad consultations, including IGOs and NGOs, in the context of rounds of meetings held over a period of two years. The task force ultimately recommended the amendment of the GFCM legal and institutional framework (2014) to make up for some shortcomings identified by the experts following the validation of the outcomes of the consultations by the Commission. Furthermore, the task force recommended that, as need be, future performance reviews be carried out to assess routinely GFCM performance.

### b) The Second GFCM Performance Review (2018 – ongoing)

Similarly to the first GFCM performance review, an independent panel of experts has been appointed to address relevant legal/institutional and scientific issues, as relating to both fisheries and aquaculture. Unlike the first GFCM performance review, the independent panel is expected to have direct consultations with GFCM CPCs and stakeholders during the timeline of the second GFCM performance review. Based on the lessons learnt through the first GFCM performance review, transparency and accountability will be promoted during the evaluation of GFCM performance in coordination with the independent panel of experts while respecting their role. It is foreseen that the independent panel of experts will draft a final report, to be submitted to the Commission at its next annual session in November, which will consist of its evaluation of GFCM performance on the basis of adopted criteria as well as an analysis of the inputs by CPCs and relevant stakeholders. The GFCM Secretariat will facilitate the process.

### 3. Implementation of the recommendations of, and other follow-up to, performance reviews of the GFCM

On 20 May 2014 the Commission endorsed by consensus a set of amendments to the GFCM Agreement which were elaborated by the task force established following the first GFCM performance review. This was the first time, since 1997, that the legal and institutional framework of the GFCM was revisited and the set of amendments adopted represents a significant change to said framework. This can be perceived by a simple way of comparison (1997 vs 2014 version of the GFCM Agreement). As far as the second GFCM performance review is concerned, it is expected that the independent panel could make recommendations on the mechanisms necessary to ensure follow-up on the outputs of this undertaking, as currently ongoing. Any final decision on this will be taken by the Commission at its next annual session (November 2019).

### 4. Lessons learned and best practices from past performance reviews of the GFCM

The performance review has demonstrated that there is always a need for codifying relevant practices in a sector where international law continues to evolve. The GFCM, as an RFMO, is not an exception to that.

### 5. Actions needed to further strengthen the effectiveness of the performance review process, including through capacity-building

A number of challenges relating to the governance of fisheries have continued to emerge of most recent years, including at the Mediterranean and Black Sea level. Not only fisheries remain a precious commodity in eradicating hunger, but their commercial value on the market keeps on increasing. This has been exacerbating the incidence of IUU fishing and, in turn, new legal instruments - both voluntary and binding in nature - and commitments have been stipulated to preserve fisheries at the global level. The outcome document of the Rio + 20 Conference - "The Future We Want" -, while praising the efforts made to strengthen the mandates of RFMOs based on the review of their performance, invited these bodies to regularly undertake such reviews. Actions needed to further strengthen the effectiveness of the performance review process will depend on progress made by every RFMO in this area. It is important that dialogue among RFMOs and with States is promoted and this round of informal consultations is a timely opportunity to address the issue, including capacity-building.