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



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GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

Thirty-first Session

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**COMPENDIUM OF GFCM RECOMMENDATIONS
AND RESOLUTIONS**

I. INTRODUCTION

1. At its 29th Session held in Rome in February 2005 the General Fisheries Commission for the Mediterranean (GFCM) invited the Secretariat to prepare and maintain a compendium of GFCM recommendations and resolutions to enable Members to better monitor implementation of GFCM decisions and measures¹. Such a compendium would provide the Commission with an instrument to monitor decisions taken, in particular those relating to the management of fisheries and the functional evolution of the GFCM, to identify provisions that were obsolete or superseded by more recent provisions, and thus to facilitate assessment of the coherence of the Commission's regulatory framework and the degrees of application of its decisions over time. The compendium would also help promote amendments to the Commission's Rules of Procedure, as suggested in document GFCM:XXXI/2007/4.

2. At its 30th Session, held in Istanbul in January 2006, the Commission welcomed the compilation by the Secretariat of a draft compendium of GFCM recommendations and resolutions and decided that this document and its database should be kept up-to-date. The Commission also invited the Secretariat to review the recommendations and resolutions, particularly their legal scope, and to make proposals to the Commission, as appropriate. In general, the Commission also emphasized the desirability of applying stricter terminology criteria in the future for the designation of recommendations, resolutions and decisions².

3. This document takes stock of progress in the compilation of the compendium and presents preliminary suggestions for its development. Given the priority of decisions concerning fisheries management, this issue was previously submitted to the Compliance Committee in accordance with indent (a) of its terms of reference (Recommendation GFCM/2006/6). The draft compendium of decisions taken by the Commission is the subject of document GFCM/COC1/2007/Inf.3.

¹ Paragraph 70 of the Report of the 29th Session.

² Paragraph 71 of the Report of the 30th Session.

II. DRAFTING OF COMPENDIUM AND SCOPE OF COMMISSION MEASURES

4. The draft compendium was developed on the basis of the outline prepared for the 30th Session, taking into account the Commission's guidelines which also called for the compendium to include the years prior to 1995. The Secretariat thus proceeded to examine the Commission's reports to compile the recommendations, resolutions and key decisions that it had adopted during the period 1956-2006. Notable was the lack of formal decisions (recommendations and resolutions) between 1980 and 1993, such decisions featuring largely before that period and more recently since 1995.

5. The draft compendium is structured in three parts: i) recommendations; ii) resolutions and; iii) "other decisions". Some of the recommendations were adopted under Article V of the Agreement establishing the GFCM, following the 1976 amendment specifying, through this article, the procedure for the entry into force of recommendations concerning fisheries management, made in accordance with Article III (b) of the Agreement. These are unequivocally binding on Members (absolute obligation) and in some cases have (juridical) implications for third parties. A number of resolutions were also adopted, mainly during the period 1956-1980. These reflect the practice of resolutions applying mainly to decisions that are institutional or procedural or that concern internal functioning. Finally, the GFCM session reports include a large number of decisions of all kinds. The reports have been formally adopted by Members and thus represent commitments towards their content.

6. However, many GFCM decisions would have benefited from being adopted in a more explicit juridical context or category. Thus, recommendations that were clearly immediately binding were adopted without reference to Article V, for example Recommendation GFCM 95/1. Similar recommendations were classified as resolutions, such as Resolution GFCM/95/4, which has in any case been largely superseded by Recommendation GFCM/2005/2. Other recommendations, such as Recommendation GFCM/2006/7 adopted under Article V, could have been resolutions. The "other decisions" category includes decisions of all kinds, some more appropriate as resolutions or indeed as recommendations, for example the "general guidelines for a GFCM control and enforcement scheme" (2005) which will probably serve as the basis for adoption of recommendations on illegal fishing. We might also question the classification of provisions on the functioning of the Commission, in particular those establishing the terms of reference of the subsidiary bodies of the GFCM committees (e.g. the Coordination Meeting of the Sub-Committees (CMSC) or the GFCM/ICCAT Joint Working Group on Stocks of Large Pelagic Fishes). Finally, certain decisions should be incorporated into the GFCM's Rules of Procedure, for example the selection procedure and terms of reference of its Executive Secretary or certain provisions of Recommendation GFCM/2006/5 which defines the criteria for obtaining the status of Cooperating Non-contracting Party to the GFCM Agreement.

7. In order to facilitate the identification and use of these measures, they could be given a reference number according to type of decision and the year/session during which it was made, together with a serial number to facilitate database search for the compendium. The initial references given to the recommendations and resolutions have been kept.

8. Thus, a preliminary examination of the draft compendium seems to indicate a lack of rigour in the classification and juridical status of GFCM decisions. It suggests the need for greater standardization, given the differing juridical scope of each category of GFCM decision. It therefore points to the need for criteria to identify each decision category.

III. PROPOSED CRITERIA FOR CLASSIFICATION OF COMMISSION MEASURES

9. The Agreement establishing the GFCM and its Rules of Procedure only provide a partial indication of the ranking of decisions, notably according to nature, scope and potential impact on third parties. The terms "recommendation" and "resolution" are employed in Articles III, V, VI, VII and XIV of the Agreement, but in very different contexts. These terms are not defined in Article I of the Rules of Procedure which deals specifically with "Definitions".

10. Drawing upon the experience of other regional fisheries management organizations and pending more precise future definition, the suggestion is to employ the following major categories to classify GFCM decisions in the compendium:

- **Recommendation:** decision that is legally binding on Members. Such a decision is taken under Article V of the GFCM Agreement when it deals essentially with issues relating to fisheries management, including the control and surveillance of fisheries and monitoring the application of management or control measures;
- **Resolution:** decision of an institutional or procedural nature essentially concerning the functioning of the Commission or its subsidiary bodies, including decisions relating to the compilation of data and information needed for fisheries management;
- **Other decisions:** any decision outside the above categories whose magnitude could be determined on a case-by-case basis.

IV. SUGGESTED ACTIONS BY THE COMMITTEE

11. The Committee is invited to examine the general criteria suggested by the Secretariat for the draft compendium of GFCM decisions. It is also invited to identify subsequent actions – to be reviewed by the Commission – for the compendium to be used and to determine its nature, bearing in mind the possible juridical status that it may be accorded (e.g. compendium versus code). The criteria are likely to change over time.

12. The COC might wish to establish a small focus group to work with the Secretariat in defining a standard format for Commission measures and developing the presentation of the compendium and the conditions for its dissemination, with priority given to decisions on the conservation and management of Mediterranean fisheries.