

REC.MCS-GFCM/34/2010/3

Concerning the identification of Non-Compliance

The General Fisheries Commission for the Mediterranean (GFCM),

RECALLING that the objectives of the GFCM Agreement establishing the General Fisheries Commission for the Mediterranean are to promote the development, conservation, rational management and best utilization of living marine resources;

RECALLING that the FAO Council adopted on 23 June 2001 an International Plan of Action (IPOA) aiming to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing;

RECALLING Recommendation GFCM/30/2006/6 on the terms of reference for the GFCM Compliance Committee;

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

CONSIDERING the obligation of all Members and cooperating non-Members of GFCM to respect the GFCM conservation and management measures;

AWARE of the necessity for coordinated and timely actions by all Members and cooperating non-Members of GFCM to ensure the enforcement of GFCM's conservation and management measures, and the need to encourage all Members and cooperating non-Members of GFCM to abide by these measures;

ADOPTS in conformity with the provision of paragraph 1 (b) and (h) of Article III and Article V of GFCM Agreement that:

1. The GFCM, through its Compliance Committee shall identify each year:

- (i) Members that have not met their obligations under the GFCM Agreement in respect of the GFCM conservation and management measures, in particular, by not taking the required measures and actions or not exercising effective control according to national rules and regulations to ensure compliance with conservation and management measures by the vessels flying their flag; and/or
- (ii) Cooperating non-Members that have failed to discharge their obligations under international law to cooperate with GFCM in the management of living marine resources, in particular, by not taking measures or exercising effective control according to national rules and regulation 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) These identifications shall be based on a review of all available information required by GFCM decisions including, for example: catch or effort data, trade information etc.
- (iv) In deciding whether to make identification, the Compliance Committee shall consider all relevant evidence and information available.

2. The GFCM shall request the Members and Cooperating non-Members concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the GFCM management measures.

3. The Executive Secretary shall, by more than one means of communication, within 10 working days following the approval of the report of the Compliance Committee, transmit the GFCM's request to the identified Member or Cooperating non-Member. The Executive Secretary shall seek to obtain confirmation from the Member or Cooperating non-Member that it received the notification. The notification shall 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 30 days before the next plenary session of the Commission with regard to the identification decision and other relevant information, for example, evidence refuting the identification or, where appropriate, a plan of action for improvement and the steps they have taken to rectify the situation; and,
- (c) in the case of a Cooperating non-Member, an invitation to participate as an observer at the annual session where the issue will be considered.

4. Members and Cooperating non-Members are encouraged jointly and individually to request the Members and Cooperating non-Members concerned to rectify the act or omission identified under paragraph 2 so as not to diminish the effectiveness of the GFCM management measures.

5. The Compliance Committee shall evaluate the response of Member or Cooperating non-Member, together with any new information, and propose to the GFCM to decide upon one of the following actions:

- (a) the revocation of the identification; or
- (b) the continuation of the identification status of the Member or Cooperating non-Member.

6. The absence of response from the Member or Cooperating non-Member concerned within the time limit shall not prevent action from the Commission.