CONVENTION ON MINIMUM REQUIREMENTS FOR ACCESS TO THE FISHERY RESOURCES OF THE AREA OF THE FISHERIES COMMITTEE FOR THE WEST CENTRAL GULF OF GUINEA (FCWC)

1. EXPLANATORY MEMORANDUM FOR THE CONVENTION

The West Central Gulf of Guinea area (herein after referred to as "the geographical space between Liberia and Nigeria included") has substantial fisheries resources. For the Member States of the FCWC, these shared resources, are a source of important cheap animal protein, livelihoods for fishing communities and foreign exchange earnings for Member States. It also contributes to poverty reduction.

The FCWC, a sub-regional fisheries cooperation organization, considering the Declaration of the Ministers in charge of fisheries in the sub-region, has designed a Plan to combat Illegal, Unreported and Unregulated (IUU) fishing and set up a working group on IUU fishing. One of the components of the implementation of this plan has been the awareness campaigns and training activities for National Experts to enable them to implement relevant provisions of international instruments such as FAO Code of conduct for responsible fisheries, the International Plan of Action (IPOA) and the Agreement of the Port States in the fight against IUU fishing.

In this vein, the FCWC adopted a Strategic Action Plan (SAP) which is an instrument of orientation and planning of its activities to sustainably achieve its objectives. The SAP proposes to FCWC partners, a framework of consistent combined programmes to be promoted through nine (9) project profiles.

The different projects also include a component on the “harmonization of the conditions of Access and exploitation of fishery resources taking into consideration the international fisheries agreements and arrangements and human migration”. This is consistent with the FCWC strategic objectives relating to the promotion of operational sub-regional cooperation on fisheries management and development as well as collaboration with non-contracting parties.

The FCWC member countries shall promote their development interdependently through the coordination and harmonization of their fisheries management policies with regard to shared stocks and aquatic resources of common interest in their respective Exclusive Economic Zones (EEZ).

For the FCWC, this common action should be affirmed by developing and establishing jointly, a system regulating vessels access to the EEZ of the Member States.

The mechanism to be put in place should include indigenous knowledge of fisheries management as well as fishermen migration.

The joint system facilitating vessel (including artisanal fishing vessels) access to aquatic resources should in the long-term:
a) Organise capacity-building activities for representatives of the FCWC Member States on matters relating to negotiating fishing agreements and partnerships with foreign vessel owners and countries operating vessels in high sea;
b) Set up an effective national and sub-regional monitoring, control and surveillance system;
c) Implement national and sub-regional fisheries management plans to ensure responsible and sustainable exploitation of stocks; and
d) Regulate the fishing capacity in the region through an improved vessel monitoring system in the sub-region.

The terms and conditions of Access will take into consideration the relevant provisions of international fisheries laws (see list in III B) and will cover the following procedures and processes:
   a) Issuing licences, catch register management;
   b) ships registration;
   c) log books, electronic data (VMS);
   d) entry into and exit of an EEZ;
   e) identification of vessels using radio signals or registration numbers;
   f) placement of observers and access to port inspection (authorised officials);
   g) rules for the transshipment of the catch, provision of data on catch in the high seas;
   h) registration of traditional fishing vessels; control the movements of traditional vessels, safety at sea certification;
   i) declaration and traceability of catch,

2. CONVENTION ON TERMS OF ACCESS TO THE FISHERIES RESOURCES LOCATED IN THE EXCLUSIVE ECONOMIC ZONE OF THE FCWC MEMBER STATES

Preamble

The Governments of the Republic of Benin, Côte d'Ivoire, Ghana, Liberia, Togo and the Federal Republic of Nigeria:

a) Having a common interest in the proper management, long-term preservation and sustainable use of fishery resources of the West Central Gulf of Guinea and determined to facilitate the achievement of their objectives through sub-regional cooperation;
b) Willing to ensure the harmonization of their fishery policies and legislation for the purposes of exploration, exploitation, conservation and the management of fishery resources as well as the conservation of the living marine resources on which fishery has an impact, and in waters under their jurisdiction;
d) Bearing in mind the Treaty establishing the Economic Community of West African States (ECOWAS) and its agricultural policy (2005), including its development programs in the fisheries and aquaculture sector and capacity building of fisheries professionals;

e) Taking into consideration the 2010-2020 FCWC Strategic Action Plan, adopted in 2010 by FCWC Fisheries Ministers Conference and the Programme of implementation of the 2011-2020 Strategic Plan developed in September 2011;

f) Willing to promote the artisanal fisheries, given its importance in terms of creation of direct or indirect jobs, contribution to food security and poverty reduction;

g) Cognisant of the need for the agreements and other arrangements, to take into consideration the concerns and expectations of the coastal communities earning most of their livelihoods from artisanal fisheries;

h) Knowing that the consolidation of industrial and artisanal fishing activities will bring the fisheries sector in the sub-region to a better integration in international trade flows; and

i) Convinced that the signing of an agreement concerning the conditions of access and exploitation of fishery resources in the waters under their jurisdiction will best serve these objectives.

Agree on the following:

Article 1
Definitions

For the purposes of this Convention, the following terms mean:

1. "Member State": a State of Fisheries Committee for the West Central Gulf of Guinea (FCWC).

2. "Zone": the area covered by the Exclusive Economic Zones of the FCWC Member States.

3. "illegal, unreported and unregulated fishing" or "IUU fishing", fishing activities considered as illegal, not reported or not regulated;

3.1 "illegal fishing", fishing activities:

   a) conducted by national or foreign fishing vessels in maritime waters under jurisdiction of a State, without the latter's authorization or in violation of its laws and regulations;

   b) conducted by fishing vessels flying the flag of States that are contracting parties to a competent fisheries management regional organization, but which operates in contravention of conservation and management measures adopted by that organization and having a binding nature for States or in violation of the relevant provisions of applicable international law; or

   c) conducted by fishing vessels in violation of national laws or international obligations, including those contracted from competent fisheries management regional organization by cooperating States;

3.2 "unreported fishing", fishing activities:

   a) which have not been declared or wrongly declared, to the competent national authority, in violation of the laws and national regulations; or

   b) that were conducted in the area of competence of a Regional Fisheries Management Organization (RFMO), and that have not been declared or wrongly declared, in violation of the procedures of this organization.

3.3 "unregulated fishing", fishing activities:

   a) conducted in the area of competence of a fisheries management regional organization by vessels without nationality, by fishing vessels flying the flag of a State not party to that
organization, or by any fishing entity, in a manner contrary to the conservation and management measures of this organization; or

b) conducted in areas or stocks for which there are no conservation and management measures, by fishing vessels in a manner not consistent with State responsibilities in terms of the conservation of living marine resources under international law;
4. "Transshipment": unloading of all or part of the stocks held on board of a fishing vessel or another fishing vessel at sea or in a port;
5. "Conservation and management measures": measures to conserve and manage marine living resources adopted and applied in a manner consistent with the relevant rules of international law, including those reflected in the Convention.
6. "Carrier or collection vessel": vessel, usually devoid of all means of fishing, for the collection of fishery products caught by other ships or fishing boats.
7 "Support vessel": vessel carrying fuel, food and other logistics for fishing vessels. It is sometimes linked to a fishing vessel.
8. “Non-contracting parties” are states which are not party to this convention.
9. “Confidential Information” means any information designated as confidential or ought to be considered as confidential;
10. “Precautionary approach” Measures and actions to take avoiding the possibility of significant environmental damage, even before there is conclusive evidence that damage will occur.
11. “Participatory approach” to fisheries is a process that involves the participation of all stakeholders, including the artisanal fishermen in fishing activities.
12. "Fishing vessel " means any vessel used for fishing or for use in its purposes, including support ships, carrier vessels and any other vessel directly involved in fishing activities.
13. "Research Vessel" means any vessel engaged in fishing, studying marine resources and their environment, ships, machinery and other equipment and fishing techniques for scientific research.
14. "Fishing" research, attracting, locating, catching, taking or harvesting fish or any activity which can reasonably be expected to result in the attracting, locating, catching, taking or harvesting fish.
15. "Shared stocks" fishery resources in area under the jurisdiction of two or more coastal States or both within the maritime area under the jurisdiction and in an adjacent area, finally the fishery resources which are found exclusively in the high seas.
16. “Ecosystem approach to fisheries” is a method of fisheries management that integrates ecological, social and economic aspects of human activities so as to meet the needs of current societies without compromising the possibilities for future generations to benefit from the goods and services that provides the marine environment. It aims, among other things, to maintain the balance and interaction of the marine ecosystem, by applying an integrated approach to fisheries in ecological limits.

**Article 2**

**Objectives**

This Convention is designed to establish a coordinated and harmonised approach to the exploitation of fishery resources in the zone by the fishing vessels of the FCWC Member States and vessels of non-contracting parties, by the determination of minimum standards of Access and exploitation of these resources, taking into consideration the interest of artisanal fisheries and coastal communities.
Article 3
Scope of application

This Convention applies to the Exclusive Economic Zones of the Member States referred to as "the Zone", which extends up to 200 nautical miles from the baselines from which their respective territorial seas have been measured and in which these States exercise sovereign rights for the purposes of exploration, exploitation, conservation and management of biological resources.

Article 4
Obligations of the Member States

1. Each Member State shall take all required measures to ensure that:
   a. the vessels flying its flag and that operate in its EEZ comply with the provisions of this Convention and the conservation and management measures adopted in the additional texts and that they are not engaged in activities undermining the effectiveness of these measures;
   b. vessels flying its flag and that operate in its EEZ are not engaged in fishing activities not allowed in waters under national jurisdiction adjacent to its EEZ; it develops and implements a satellite monitoring system of the vessels flying its flag and fishing in the zone.

2. Each Member State collects and shares with other Member States timely, complete and accurate data on the activities of fishing vessels flying its flag and of vessels of non-contracting parties that operate in the zone, in particular the position of vessels, declaration of catch, by-catch and fishing effort, while maintaining confidentiality of data.

Article 5
Regulation of access to the fishery resources for artisanal fishing

The Member States are committed to establishing a consultation platform to integrate artisanal fishing into a viable fisheries resources management system through the establishment of harmonized conditions and terms of access of artisanal fishers to these resources.

Article 6
Access to the surplus of the available resource

1. Any Member State may, in accordance with international law, allow the access of vessels flying the flag of another State to the surplus of the resource available in its Exclusive Economic Zone, through agreements or other arrangements.

2. The duration of access shall be fixed in accordance with the advice or instructions of the research institutions of the Member State or any specialized structure in fisheries. This can be extended in specific cases as deemed appropriate after consultation with the Port State, based upon research data.

3. The agreements and arrangements must contain clauses of adaptation to the authorized fishing effort, depending on the availability of the resource, in respect of the precautionary approach.
Article 7
Fishing vessel registers

1. Each Member State shall keep a national register of fishing vessels authorized to operate within the waters under its jurisdiction and shall ensure that all information about these vessels are documented.
2. On the basis of the information provided by the Member States, the FCWC shall keep a sub-regional register of vessels engaged in fishing in the zone, including carrier and support service vessels. Vessels not in the sub-regional register of vessels are not allowed to fish in the zone or carry out transshipment and support operations.

Article 8
Access Arrangements

1. Exploitation of the fishery resources of the EEZ of a Member State by vessels of another Flag States is subject to prior Access arrangement between the Member State and the Flag State.
2. Application for Access is made by any legal or physical entity in conformity with the legislation of the Port State concerned or the provisions contained in agreements or other arrangements.

Article 9
Requirements for granting Fishing Licence under Access

1. Application for licence under Access must contain the minimum information specified in a form with the model given in annex 1 for industrial fishing and in annex 2 for artisanal fishing of this Convention, without prejudice to any additional information that may be required by national laws.
2. The issuance of Access to a vessel occurs after verification of compliance by the aforesaid vessel with the rules governing the registration and marking of vessels in force in the concerned State.
3. Vessel identification marks must be in accordance with internationally recognized standards, such as the FAO Standardised Specifications and Guidelines related to the Identification marks of the fishing vessels.
4. Vessels applying for Access must be equipped with the appropriate satellite tracking system, precisely Argos or Inmarsat-C.
5. Access will not be issued to the applicant vessel if the conditions required by the laws and regulations are not met.
6. Obtaining Access requires a payment of an access fee fixed by each Member State and calculated on the basis of principles established by the Member States.
7. Access is granted taking into consideration the guidelines and forecasts contained in the national and sub-regional fisheries management plans.

Article 10
Duration of Access

1. The period of validity of access will be determined by each Member State, according to its fisheries policy.
2. The duration should take into consideration the requirements for the conservation and management measures of fisheries resources and the requirements of an interrupted supply of fishery products.
Article 11
Fishing Zones

1. Each Member State shall determine the fishing zones according to its legislation and take account of the types of fisheries.

Article 12
Deep-sea fishing

Each Member State shall take the following control measures to ensure that the registered fishing vessels practicing deep-sea fishing does not engage in activities likely to undermine the effectiveness of international measures on conservation and management of fishery resources:

   a. The banning of these vessels from being used for deep-sea fishing, unless it has permitted them; and
   b. The banning of these vessels from being used for deep-sea fishing, if the State in view of the existing links between it and such vessels, does not carry out effectively, its responsibilities on them.

Article 13
Chartering

Each Member State shall set out the conditions and modalities for chartering fishing vessels flying the flag of a non-contracting party.

Article 14
Technical measures

1. Fishing vessels must comply with the rules and measures adopted by the Member States in implementing their policy on fisheries development and management, concerning:
   a. the prohibited or protected fishing areas as well as periods of closure or temporary suspension of fishing;
   b. the fishing gears and their technical specifications;
   c. the commercial size of catches;
   d. the by-catch and discard; and
   e. the protected species or endangered species.

2. The minimum mesh size of nets and trawls of fishing vessels authorised in the zone is specified in a Protocol to the Convention.

3. The use, retention or transport of toxic substances or explosives by fishing vessels is prohibited. The same prohibition is applicable to the use of non-selective gears such as mono filaments or the multi filaments which have a negative impact on the environment.

Article 15
Declaration of catch

Any vessel with fishing licence in the Exclusive Economic Zone (EEZ) of a Member State or in the high sea is required to provide all the data and statistical information indicating catches made in
accordance with the regulations in force in that State. Member States shall encourage vessels to adopt systems using electronic logbooks.

Article 16
Landing and transshipment

1. In the signing of fisheries agreements or other arrangements between a Member State and a non-contracting party, the landing of catches in one of the ports of that Member State or in one of the ports of the other Member States should be included in the framework of the agreement.
2. Any vessel operating in the Exclusive Economic Zone (EEZ) of a Member State and wishes to transship catches shall do so in a port of the State or a designated port that authorised it to fish.
3. Any transshipment of catches at sea is prohibited except in verifiable emergency situations. The transshipment in emergency situations is conducted in the presence of Member State sworn fishermen or observers.

Article 17
Recruitment of Crew

As part of the fishing agreements or other arrangements between a Member State and a non-contracting party, there shall be a provision for the recruitment of crew, who are nationals of the Member State.

Article 18
Observers

1. Vessels authorized to fish in the zone under this Convention, shall take on board observers who have the mission to verify and certify the catches made by the vessel.
2. An observer on board has the status of an authorised officer.
3. The conditions of observers on board will be defined by mutual agreement between the owner of the vessel and the State which issued the licence.

Article 19
Inspection at sea

Vessels engaged in fishing activities in the Exclusive Economic Zone (EEZ) of a Member State, shall facilitate on board, the duties of any authorised official responsible for inspection and control of fishing activities and who is a national of the concerned State.

Article 20
Inspection at port

1. For the purposes of combatting illegal, unreported and unregulated fishing (IUU), an effective port inspection system on fishing vessels of non-contracting parties making a stop-over in the ports of the Member States should be established.
2. The officers in charge of inspection have the power to check all areas, any necessary document on board the vessel, catches (processed or raw), nets or other gear, equipment and any document they deem necessary to ensure strict compliance with international conservation and management regulations or measures.

**Article 21**

**Prior notification**

The masters of fishing vessels from non-contracting parties or their representatives shall communicate to the competent authorities of the Member State which they wish to use the ports or the landing sites designated, at least three working days before the estimated time of arrival at the port, the following items: Masters of fishing vessels of non-contracting parties or their representatives shall inform the appropriate authorities of the Member State of their intention to use the ports or the landing sites designated, at least three (3) working days before the estimated time of arrival at the port, the following elements:

a) identification of the vessel;

b) the name of the port of destination and Purpose of call to port (landing, transshipment, access to the services, crew change etc.);

c) the fishing licence or, where appropriate, authorization to support fishing operations or to transship fishery products;

e) period of fishing trip;

d) date and time of arrival at the port;

f) quantities of each species held on board consistent with declaration form;

g) areas where fishing is carried out and where transshipment is carried out, either in the zone, in areas under the jurisdiction or sovereignty of a another state or in high-seas;

h) quantities of each species to be offloaded or transshipped.

**Article 22**

**Entry and exit of the Exclusive Economic Zone**

Vessels authorised to fish in the EEZ of a Member State shall inform the appropriate authorities of the aforementioned state, at least twenty four (24), in advance of their intention to enter or exit the fishing area; and also give data on the species and overall quantities stored on board.

**Article 23**

**Vessels in transit**

Non-contracting States fishing Vessels in transit under the jurisdiction of a Member State shall stow their gear.
Article 24
Cooperation in the fight against IUU fishing

Member States, acting jointly under this Convention shall cooperate closely, either directly or through regional fisheries management organizations, to agree on information exchange systems and joint actions to fight IUU. In this regard, the States shall:

a) promote and implement both at the national and regional level the best use of tools recognized internationally as effective to combat IUU fishing, especially the International Plan of Action (IPOA) to prevent, deter and eliminate the IUU and the agreement on the measures within the jurisdiction of the Port State to prevent, deter and eliminate IUU fishing;
b) improve cooperation between them for better Monitoring, Control and Surveillance (MCS) of fisheries and related activities, in particular through the exchange of information, the adoption of harmonised inspection procedures, programmes of observers and implementation of joint fisheries patrols;
c) devote special attention to trade-related measures in particular by the development of traceability of fish and seafood from fisheries to end-consumers;
d) work closely with all stakeholders in the sector, in particular artisanal fishers, fishing organizations, industrial fishers, other stakeholders and international partners;
e) set up a working group to coordinate action and sub-regional measures to strengthen the fight against IUU fishing; and
f) harmonise and formalise Law enforcement.

Article 25
Offences and sanctions

1. Member States shall ensure that the sanctions imposed for violations of national Laws especially in case of illegal, unreported and unregulated (IUU) fishing are severe enough to deter recalcitrant(s) and are not simply seen as costs associated with fishing activities.
2. A fishing vessel is presumed to engage in IUU fishing if it is proved that, in contravention of applicable conservation and management measures in the zone, it:
   a) fished without a licence being issued by the flag State or the relevant Coastal State; or,
   b) failed to register and report the catch data or related data, including data to be transmitted by satellite vessel monitoring system or the pre-export notifications under article 20;
   c) fished in a prohibited area or during a closed season, exceeding quota or after the quota is exhausted; or,
   d) fished on a stock under a moratorium or whose fishing is prohibited; or,
   e) used prohibited or non-compliant gear; or toxic products or explosives;
   f) falsified or concealed its markings, identity or registration; or,
   g) hampered mission officers in carrying out their mission of inspection in compliance with measures of conservation and management or that hampered observers in the exercise of their mission of observation of the respect of national rules; or,
   h) transhipped or landed juvenile fish, in violation of the laws in force; or,
   i) was involved in transshipment or joint fishing with established fishing vessels that engaged in IUU fishing, particularly those appearing on the list of IUU vessels established
by a Regional Fisheries Management Organization (RFMO), or that it helped or replenished these vessels; or,
j) engaged in fishing activities in the area covered by a Regional Fisheries Management Organization (RFMO) in a manner that is inconsistent with the measures of conservation and management of the organization or in violation of these measures and flies a flag of a State not party to that organization, or cooperating with this organization according to the rules established by it; or,
k) has no nationality and is therefore a stateless vessel according to international law.

3. Without prejudice to the penalties provided by the domestic legislation, sanctions shall include the withdrawal or suspension of the fishing licence issued to the offending vessel.

**Article 26**

**Interpretation and settlement of disputes**

Any dispute concerning the interpretation and application of the provisions of this Convention shall be brought before the Conference of Ministers of the FCWC. Any dispute shall be settled amicably, through conciliation, mediation, or arbitration.

**Article 27**

**Amendments**

Any Member State may move an amendment to this Convention by submitting to the depository the proposed draft amendment at least sixty (60) days before a meeting of the Conference of Ministers of the FCWC. The depository shall quickly send a copy of this proposal to all Member States. The Depositary shall distribute in the 15 days after a copy of this text to all the Member States.

**Article 28**

**Additional protocols**

Additional protocols, if need be, shall be specified for conservation and management measures.

**Article 29**

**Preamble and Annexes**

The preamble and annexes to this Convention are an integral part of it.

**Article 30**

**Cessation of Membership**

The membership to this Convention may be terminated by any Member State. It will no longer be applied to that Member State six (6) months after the date of notification to the Chairman of the Conference of Ministers of the FCWC, which shall inform the other Member States of the decision taken by the Member State concerned.
Article 31
Signatories to the Convention

This Convention is open for signature to the Member States of the FCWC.

Article 32
Effective date

This Convention enters into force on the ninetieth (90) day following the date of signature by all Member States.

Article 33
Depository

The Secretary General of the FCWC is the depository of this Convention and any related amendment(s). The depository shall circulate certified copies of this Convention to all the signatories and shall register this Convention with the FCWC Secretariat.

Done in ................. in English and French versions, the two texts being equally authentic.

For the Government of the Republic of Benin,

Fatouma AMADOU DJIBRIL, Minister
Of Agriculture and fisheries

For the Government of the Republic of Côte d’Ivoire,

Dongo Manzan KOFFI, Director of the Cabinet
du Ministry of fisheries

For the Government of the Republic of Ghana

Aquainas TAWIAH QUANSAH, Deputy-Minister
of fisheries and Aquaculture

For the Government of the Republic of Liberia,

Dr Sizi SUBAH, Deputy Minister of Agriculture

For the Government of the Federal Republic
of Nigeria

For the Government of the Republic of Togo,

Colonel Ouro-Koura T. AGADAZI, Minister of
Agriculture and des fisheries
ANNEX I
Industrial fishing Application Form for Access

1. Name of the ship-owner: .................................................................
2. Address of the ship-owner: ...........................................................
3. Name of the representative or agent: ..............................................
4. Address of the representative or local staff of the ship-owner: ........
5. Name of the Master/captain: ..........................................................
6. Name of the ship: ...........................................................................
7. Registration Number: ...................................................................
8. Fax Number: ..............................................................................
9. Electronic Address: ....................................................................... 
10. Radio Code: ................................................................................
11. Date and place of construction: .....................................................
12. Nationality of the flag: ..................................................................
13. Registration Port: .......................................................................... 
14. Home port: ................................................................................
15. Length (h.t.): ................................................................................
16. Width: ...........................................................................................
17. Gross tonnage: ............................................................................. 
18. Net tonnage: ................................................................................
19. Hold capacity: ............................................................................... 
20. Refrigeration and freezing capacity: ............................................. 
21. Engine type and horsepower: ........................................................
22. Fishing equipment and supplies: ...................................................
23. Number of sailors: ......................................................................... 
24. Communication system: ............................................................... 
25. Call sign: ...................................................................................... 
26. Signs of recognition: .....................................................................
27. Fishing operations to be developed: ............................................. 
28. Place of unloading: ....................................................................... 
29. Fishing Areas: ..............................................................................
30. Species to be captured: ................................................................
31. Period of validity: ......................................................................... 
32. Special conditions: .................................................................
33. Type of beacon: ARGOS : □
    Identification: NMARSAT C: □
    Identification: .............................................................................

Opinion of the fisheries Administration: ........................................
Remarks of the Ministry in charge of Fisheries:
ANNEX II
Artisanal fishing Application Form for Access

1- Name of the vessel-owner: .................................................................
2- Address of the vessel-owner: .................................................................
3- Name of the ship: .................................................................
4- Registration Number: .................................................................
5- Date and place of construction: .................................................................
6- Nationality of the flag: .................................................................
7- Registration Port: .................................................................
8- Home port: .................................................................
9- Building material: .................................................................
10- Length (h.t.): .................................................................
11- Width: .................................................................
12- Tonnage: .................................................................
13- Engine type and horsepower: .................................................................
14- Fishing equipment and supplies: .................................................................
15- Number of fishermen: .................................................................
16- Fishing Areas: .................................................................
17- Period of validity: .................................................................
18- Special conditions: .................

Opinion of the fisheries Administration: .................................................................
Remarks of the Ministry in charge of Fisheries: .................................................................