

[Translation by the Registry]

[Letterhead of the Permanent Secretariat of the Sub-Regional Fisheries Commission]

Dakar, 9 April 2013

No. 467 CSRP/SP

From the Permanent Secretary

to

Mr Philippe Gautier

Registrar

International Tribunal for the Law of the Sea

Re: Your letters of 28 March and 8 April 2013

Dear Mr Gautier,

I have the pleasure to acknowledge receipt of your above-referenced letters informing me that the request for an advisory opinion submitted by the Sub-Regional Fisheries Commission (SRFC) has been entered in the List of cases of the International Tribunal for the Law of the Sea and requesting the elements supporting our request.

Please allow me, on behalf of all the Member States, to take this opportunity to express our heartfelt gratitude to your Institution for the favourable response to our request for an advisory opinion and to assure it of the SRFC's full co-operation in seeing to the smooth conduct of the proceedings thus commenced.

Thus, please find herewith scanned copies of the following documents:

1. Technical Note on the MCA Convention (in French);
2. Convention of 29 March 1985 establishing the Sub-Regional Fisheries Commission, as amended on 14 July 1993 (in English and French);
3. SRFC Rules of Procedure (in English and French);
4. SRFC Staff Regulations (in English and French);
5. Convention on Sub-Regional Cooperation in the Exercise of Maritime Hot Pursuit (in English and French) and its Implementing Protocol dated 01/09/1993; and
6. Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Areas under Jurisdiction of the Member States of the SRFC (in English and French).

I have duly noted that the SRFC is supposed to provide 70 copies of these documents to you; however, for practical transport-related reasons, may I suggest

that ITLOS have the photocopies made for the account of the SRFC and that the invoice for the resulting charges be forwarded to us for payment.

In addition, I hereby confirm that the reference in the second paragraph of my letter of 27 March 2013 should indeed be to "**Article 21**", instead of "Article 20".

Please accept, Sir, the assurances of my distinguished consideration.

[signature and seal]
The Permanent Secretary
Sub-Regional Fisheries Commission

Copies:

Mr Hassimiou Tall, Chairman, SRFC Coordinating Committee
Ms Diénaba Bèye, C/DHLP [Head of the *Département Harmonisation des Politiques
et des Législations des Pêches*]

Documents soumis par la CSRP à l'appui de la demande (suite)
- Technical Note on the MCA Convention (English translation by the Registry)

[Translation by the Registry]

Sub-Regional Fisheries Commission

PERMANENT SECRETARIAT

**CONVENTION ON THE DETERMINATION OF THE MINIMAL CONDITIONS
FOR ACCESS AND EXPLOITATION OF MARINE RESOURCES
WITHIN THE MARITIME AREAS UNDER JURISDICTION
OF THE MEMBER STATES OF THE SRFC (MCA CONVENTION)**

TECHNICAL NOTE

March 2013

OUTLINE

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- II JUSTIFICATION FOR REVISING THE MCA CONVENTION**
- III PROCESS FOR REVISING THE MCA CONVENTION**
- IV CONTENT OF THE REVISED MCA CONVENTION**
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I INTRODUCTION

The Sub-Regional Fisheries Commission (SRFC) is an intergovernmental organization for fisheries cooperation established by the Convention of 29 March 1985 and bringing together seven coastal States in West Africa: Cape Verde, the Gambia, Guinea, Guinea-Bissau, Mauritania, Senegal and Sierra Leone. The organization's objective is to bring about the long-term harmonization of the Member States' policies on the preservation, conservation and sustainable exploitation of their fisheries resources and to enhance cooperation for the benefit of the well-being of their respective populations.

The area covered by the SRFC Member States measures 1.6 million sq. km. and the coastal fronts extend over nearly 3,500 km. The States have an aggregate population of close to 37 million (70% of which lives near the coast), with annual per capita consumption of fisheries products not exceeding 20 kg. Fishing is a leading activity in these States and contributes significantly to their economic and social development (*job creation, food production, exports*). The total number of jobs in the industry is estimated to exceed 1 million (*direct and indirect*), with a fleet of 36,000 boats and more than 1,200 industrial vessels, of which 750 are foreign. The presence of transboundary fish stocks and fish stocks of common interest is of great benefit to these States, whose total annual production in the maritime fisheries sector is estimated to be 1.7 million tons. Catches are estimated to be worth 1.5 billion dollars per year, and the estimated value of exports is 412 million dollars.

With the advent of the crisis in the fishing industry in the 1990s, and in order to foster the negotiation of fisheries agreements with third States on a harmonized basis agreed among themselves, the Member States adopted a consensual sub-regional legal instrument *on 14 July 1993 at Praia* (Cape Verde) to regulate the conditions for access to their respective exclusive economic zones (EEZs): this was the *Convention on the Determination of the Conditions for Access and Exploitation of Marine Resources off the Coasts of the Member States of the SRFC*, commonly known as the **Minimal Conditions for Access (MCA) Convention**. The Convention however soon proved outmoded in terms of its content and impact.

II JUSTIFICATION FOR REVISING THE MCA CONVENTION

Four main reasons led the SRFC to update the MCA Convention:

- (i) Notwithstanding the MCA Convention's entry into force in 1993, certain of its provisions had not been incorporated into national law in the Member States;
- (ii) Over-exploitation of fisheries resources, in particular small pelagic and demersal species, by not only foreign but also domestic vessels (industrial and artisanal);
- (iii) Illegal, unreported and unregulated (IUU) fishing of an ever more alarming magnitude in the sub-region. Allowable catches nearly equal IUU catches in some Member States, e.g., in Guinea, Guinea-Bissau

and Sierra Leone. The lost income to national economies caused by IUU fishing in West Africa is on the order of 500 million dollars per year;

(iv) A fast-changing regional and international legal environment after 1993 created by relevant international legal instruments adopted and recommended by the United Nations and its specialized agencies, notably the Food and Agriculture Organization of the United Nations (FAO) and the International Labour Organization (ILO):

- United Nations Convention on the Law of the Sea (*UN, 1982*);
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (*FAO, 1993*);
- 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 (*UN, 1995*);
- Code of Conduct for Responsible Fisheries (*FAO, 1995*);
- International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (*FAO, 2001*);
- Johannesburg Declaration on Sustainable Development (*UNCTAD, 2002*) and its Plan of Implementation;
- International Maritime Labour Convention (*ILO, 2006*);
- Work in Fishing Convention (*ILO/No. 188*);
- Guidelines for Port State Control Officers Carrying Out Inspections under the Maritime Labour Convention (*ILO, 2006*);
- Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (*FAO, 2009*).

Also of relevance are:

- European Union Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (EC, 2010);
- Nouakchott Declaration on Illegal, Unreported and Unregulated Fishing (SRFC, September 2001).

III PROCESS FOR REVISING THE MCA CONVENTION

After 10 years of discussion (*from 2000 to 2009*) at the sub-regional level among experts from the SRFC Member States, a sub-regional workshop was held in April 2009 in Dakar, followed by national workshops in each of the seven Member States¹, with a view to reaching agreement on the subjects to be included in the revised MCA Convention. Along the same lines, the Permanent Secretary of the SRFC wrote to the International Tribunal for the Law of the Sea in 2010 in respect of certain legal and procedural questions relating to the process for revising the MCA Convention.

After completion of these regional and national meetings, the Permanent Secretariat, in conjunction with its technical and financial partners, drew up the Draft Convention to revise the 1993 Convention on the Determination of the Conditions for Access and Exploitation of Marine Resources off the Coasts of the Member States of the SRFC. The Draft Revised MCA Convention was examined and approved in Dakar in July 2011 by the Twenty-Second Extraordinary Session of the expanded SRFC Coordinating Committee, i.e.: *Directors of Fisheries; Directors of Fisheries Monitoring, Control and Surveillance (MCS); Directors of Scientific Research; and Legal Advisers to the Ministers in charge of fisheries in the Member States*. Given the Convention's strategic importance for the sub-region, the Committee recommended its adoption at the Thirteenth Extraordinary Session of the Conference of Ministers of the SRFC, which adopted the revised MCA Convention in Dakar on 8 June 2012.

IV CONTENT OF THE MCA CONVENTION AS REVISED IN 2012

The 2012 MCA Convention is made up of two parts:

1 - **The main text**, which sets out the minimal agreed conditions for access to fishery resources by vessels under third-State flag and operating in maritime areas of the SRFC Member States and which specifies the provisions to be incorporated into national law for this purpose. It incorporates the main principles laid down by international law, including in particular the Code of Conduct for Responsible Fisheries, the Straddling Fish Stocks and Highly Migratory Fish Stocks Agreement, and the Port State Measures Agreement.

2 - **Four Annexes**, forming an integral part of the Convention and made up of forms specifying the minimum information (*for artisanal fishing and industrial fishing*) which must be set out in: *applications for fishing licenses, *fishing licenses, *logbooks and *data collection forms.

The MCA Convention is an international treaty strengthening cooperation in fisheries matters among Member States for the purpose of harmonizing their positions in negotiations on fisheries agreements and within international bodies. It entered into force on the one-hundredth day following the date of signature by all SRFC Member

¹ These national workshops were held in: the Gambia (Banjul, 18-19 August 2009), Sierra Leone (Freetown, 2-3 September 2009), Guinea-Bissau (Bissau, 29-30 September 2009), Cape Verde (Mindelo, 5-6 November 2009), Mauritania (Nouakchott, 20-22 December 2009); Senegal (Dakar, 21-22 January 2010) and Guinea (Conakry, 6-7 April 2010).

States. It was signed on 8 June 2012 by the Ministers in charge of fisheries of the Member States. **The Convention entered into force on 16 September 2012.**

Article 33 of the revised MCA Convention establishes the possibility for the Permanent Secretary of the SRFC, acting pursuant to decision by the Conference of Ministers, to bring a given legal matter under maritime law or the law of the sea before the International Tribunal for the Law of the Sea for advisory opinion.

V JUSTIFICATION FOR THE REQUEST TO THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA (ITLOS) FOR AN ADVISORY OPINION

There now exist many new economic and scientific uses of the seas whose legal status is open to argument. New developments call for new legal responses which the Tribunal can give through its advisory opinions. The advisory function of the Tribunal can make a great contribution to sound governance of the seas and oceans.

More specifically, the 2001 International Plan of Action to Prevent, Deter and Eliminate IUU Fishing and the 2009 Port State Measures Agreement include important provisions aimed at reinforcing the powers of the coastal State in the fight against IUU fishing. These legal instruments, especially the 2009 Agreement, are binding on the SRFC Member States and are helpful to these countries, whose fragile economies suffer serious damage from IUU fishing.

These instruments bring major innovations to classic international law, notably in the area of the flag State's obligations in respect of vessels engaged in IUU fishing not only in its own EEZ but also in those of other countries.

Accordingly, it is particularly useful for the SRFC Member States to know precisely what their rights and obligations are in this connection, especially the newly created rights and obligations. Given its powers and competencies, the Tribunal is well placed to provide the necessary elucidation of these points and other related ones involving fishing licenses and sustainable management of shared stocks and stocks of common interest.

The request for an advisory opinion submitted to the International Tribunal for the Law of the Sea by the SRFC is aimed at supporting the SRFC Member States to enable them, thanks to sensible and perceptive advice, to derive the greatest benefit from the effective implementation of the relevant international legal instruments and at ensuring that the challenges they are facing from IUU fishing are better met. It will help to strengthen the SRFC and enhance its visibility and credibility.

That is the general scheme and spirit of the Resolution adopted on 28 March 2013 by the Fourteenth Extraordinary Session of the Conference of Ministers of the SRFC, *authorizing the Permanent Secretary of the SRFC to seise the International Tribunal for the Law of the Sea to obtain an advisory opinion*, in the context of the Twenty-eighth Anniversary of the Sub-Regional Fisheries Commission, the 2013 theme of which is the fight against IUU fishing.

Documents soumis par la CSRP à l'appui de la demande (suite)
- Amendment to the Convention of 29th March 1985 establishing the Sub-Regional Fisheries Commission⁵

SUB-REGIONAL FISHERIES COMMISSION (S.R.F.C.)

(CAPE VERDE, THE GAMBIA, GUINEA, GUINEA-BISSAU, MAURITANIA, SENEGAL)

<p>AMENDMENT TO THE CONVENTION OF 29TH MARCH 1985 ESTABLISHING THE SUB-REGIONAL FISHERIES COMMISSION</p>
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⁵ For the text of the Convention, see below, (b) under *Completion of Documentation*.

SUB-REGIONAL FISHERIES COMMISSION

AMENDMENT TO THE CONVENTION OF 29TH MARCH 1985

ARTICLE ONE : articles 1, 5, 6, 7, 9, 12, 13, 14, 15, 16, 18, 19, 21 and 25 of the Convention of 29th march 1985 establishing the Sub-Regional Fisheries Commission are modified as follows :

"ARTICLE ONE:

There is hereby established a Sub-Regional Fisheries Commission which shall be composed of the Governments of the Republic of Cape Verde, the Republic of the Gambia, the Republic of Guinea, the Republic of Guinea-Bissau, the Islamic Republic of Mauritania and the Republic of Senegal. The Commission shall have the legal personality and hereto can sue and be sued.

The Commission shall enjoy on the territories of the member States, the privileges and immunities defined in the annex I of the present Convention.

ARTICLE 5:

The Conference of Ministers in charge of Fisheries of the member States is the supreme organ of the Commission.

It is assigned the task of defining the objectives of the sub-regional cooperation and of deliberating upon any issue regarding the preservation and exploitation of the sub-region's fish resources.

However, its action of harmonization in this regard must take into account national fishery policies of the member States.

ARTICLE 6:

The Presidency of the Conference of Ministers shall be assumed in turn by each of the Ministers in charge of fisheries following the alphabetical order of the member States for a two (2) years duration.

Between two sessions, the President of the Conference of Ministers shall represent that organ and shall ensure the implementation of its directives.

ARTICLE 7:

The Conference of Ministers shall meet in ordinary session every two (2) years and in extraordinary sessions as much as is necessary.

The ordinary session shall be convened by the President of the Conference of Ministers for the dates proposed by the State due to host the said session.

The extraordinary sessions shall be convened by the President of the Conference of Ministers either on his/her own initiative or on the request of the majority of the member States.

ARTICLE 9:

The Co-ordinating committee is the consultative technical organ of the Commission. It shall be composed of the Directors of fisheries or any other Expert appointed by the member States.

It shall be assigned the tasks :

- Of collaborating with the Permanent Secretary regarding in particular the organization of meetings and the implementation of the decisions of the Conference of Ministers ;
- Of formulating recommendations to the Conference of Ministers on issues to review.

ARTICLE 12:

The Permanent organ, implementing organ of the Commission is the Permanent Secretariat directed by a Permanent Secretary.

The Conference of Ministers on the proposal of the member States, shall decide on the nomination of the Permanent Secretary for a four (4) years period renewable once.

The operating costs of the Permanent Secretariat shall be borne by the contributions of the member States according a schedule defined by decision of the Conference of Ministers, such decision being an integral part of the Convention.

ARTICLE 13:

The Permanent Secretariat under the authority of the President of the Conference of Ministers shall be charged with the tasks :

- Of implementing decisions of the Conference of Ministers ;
- Of maintaining regular links with the member States through the members of the Co-ordinating Committee ;
- Of preparing documents on management actions to be taken in the interest of the sub-region ;
- Of designing in co-operation with research units, joint research programmes to submit for study and funding by funding institutions ;
- Of appointing the personnel of the Permanent Secretariat in accordance with the personnel's status adopted by the Conference of Ministers ;
- Of implementing the budget as adopted by the Conference of Ministers and reporting to the Conference on the implementation of the said budget ;
- Of representing the Commission vis-à-vis to third bodies ;
- Of presenting to the Conference, an activities report.

ARTICLE 14:

The Permanent Secretary with the prior approval of the President of the Conference of Ministers, shall organize technical meetings as much as is necessary.

These meetings which can be held in any member State, shall be aimed at reviewing scientific, technical, legal and economic issues or other particular subjects regarding the co-operation programme adopted by the Conference of Ministers. They shall be open to the Experts of the member States and to other personalities invited by the Permanent Secretary.

ARTICLE 15:

The Permanent Secretary shall be responsible to the Conference of Ministers to which he/she shall report on the activities of the Secretariat. Between two sessions, he/she shall be under the authority of the President of the Conference of Ministers.

ARTICLE 16:

The costs of participating in the meetings of the Conference of Ministers, the Co-ordinating Committee or in the technical meetings shall be borne by the participants

under their respective governments or organizations.

The costs of organizing on its territory, a meeting of the Conference of Ministers, the Co-ordinating Committee or technical meetings shall be borne by the host country.

The financial resources of the Commission shall comprise, apart from the contributions of the States mentioned under article 12 paragraph 3 above, grants from States or international organizations, donations, legacy and other resources compatible with the objectives of the Commission.

ARTICLE 18:

For the achievement of the objectives of the Commission, the Permanent Secretary may cooperate as much as is necessary with national and international bodies having similar objectives with the view to ensuring a collaboration and an efficient co-ordination of programmed actions, on subject for him/her to report to the Conference of Ministers.

ARTICLE 19:

The Permanent Secretary may equally invite any relevant international body to send experts or observers to the meetings of the Commission.

ARTICLE 21:

Any member State wishing to withdraw from the Commission shall notify it in writing to the President of the Conference of Ministers who shall immediately inform other member States.

The present Convention shall cease to apply to that State within a six (6) months delay from the date of notification, without prejudice to the obligations in particular financial obligations resulting from previous commitments.

The withdrawal of a member State shall not imply the dissolution of the Commission.

In the case of a withdrawal of the State currently assuming the Presidency of the Conference of Ministers, the Presidency shall be assumed by the State due to organize the following ordinary session of the Conference of Ministers.

ARTICLE 25:

The present Convention shall be submitted for ratification by the signatory States

according to their respective constitutional procedures. The ratification instruments will be deposited with the host State which shall inform other member States.

Member States shall elaborate and adopt additional protocols prescribing notably measures, procedures and standards aimed at precisng and strengthening the modalities of implementation of the provisions of the present Convention.

ARTICLE 2:

The present amendment shall come into force after deposit of the ratification instruments by the member States.

Done at Praia, Republic of Cape Verde, the day of 14th july 1993 in English, arabic, french and portuguese languages, the four (4) texts being equally authentic.

For the government of the
Republic of Cape Verde

For the Government of the
Republic of the Gambia

Mrs Maria Helena Nobre de
Morais Querido SEMEDO

Mister Sajo TOURAY

For the Government of the
Republic of Guinea

For the Government of the
Republic of Guinea-Bissau

Mister Ibrahima Sory SOW

Mister Eduardo FERNANDES

For the Government of the
Islamic Republic of Mauritania

For the Government of the
Republic of Senegal

Mister Abdallahi Ould ABDI

Mister Abdourahmane SOW

ANNEX I**PRIVILEGES AND IMMUNITIES OF THE
SUB-REGIONAL FISHERIES COMMISSION**

The immunities and privileges which the Sub-Regional Fisheries Commission shall benefit from on the territories of the member States are defined in the present annex to the Convention of 29th march 1985 establishing the Sub-Regional Fisheries Commission.

ARTICLE ONE

The Commission shall enjoy on the territories of the member States, the privileges and immunities necessary to its operation unless express renunciation from its part.

TITLE ONE: GOODS OF THE COMMISSION**ARTICLE 2:**

The Headquarters and other premises of the Commission shall be inviolable. Its goods and assets shall be free from any requisition, confiscation, expropriation or any other executive, administrative, legal or legislative constraint.

ARTICLE 3:

The Headquarters shall be under the control of the Permanent Secretary of the Commission.

The Government either administrative, legal, military or police officials or officers of the host country could penetrate in the Headquarters to perform their official duties only with the consent of the Permanent Secretary and on conditions defined by him/her.

However, the Permanent Secretary shall prevent the Headquarters from serving as a refuge for persons :

- Pursued for flagrant offence ;
- Sought after for the execution of a legal decision, a deportation act or attempting to back out of a legal procedural act.

ARTICLE 4:

The Government of the host country shall watch over the Headquarters peace and safety.

On the request of the Permanent Secretary, the Government of the host country shall undertake to maintain order at the Headquarters and in accordance with the Permanent Secretary's instructions, shall evict any person deemed undesirable by him/her.

ARTICLE 5:

The Commission for its official communications, shall enjoy a treatment as favourable as that given by the member States to any interstatal organization.

The official correspondence and other communications of the Commission may not be censored ; this shall apply, and this enumeration is not exhaustive, to publications, documents, photographs and to audio-visual tapes belonging to the Commission for its official use.

ARTICLE 6:

The Commission shall be exempted from all duties and taxes and from all import/export prohibitions and restrictions regarding goods imported for its official use. Nevertheless, tax free imported goods could be sold on the territory of the member States only in agreement with the State on the territory of which the sale is effected.

The Government shall commit itself to facilitate the tax free entrance of goods belonging to the Commission for its official use.

ARTICLE 7:

The Commission shall have the right to use for its official needs, the transport means of the Governments of the member States in the same conditions as for permanent diplomatic missions.

ARTICLE 8:

An additional protocol must be concluded between member States to define with precision the conditions of implementation and of achievement of any work of

common interest as well as the reciprocal obligations of the member States.

**TITLE II:
IMMUNITIES AND PRIVILEGES OF THE
COMMISSION'S OFFICIALS, OFFICERS AND EXPERTS**

ARTICLE 9 :

The Commission's officials, officers and experts who may benefit from the immunities and privileges below shall be listed and such a list shall be forwarded by the Permanent Secretary to the Ministry in charge of external relations of the concerned State. The officials, officers and experts subsequently registered shall be issued a special card for identity by the said Ministry.

ARTICLE 10 :

The Commission's officials, officers and experts shall benefit from immunities and privileges established under article 4 section 11 of the United Nations Convention of 13th February 1984 on the privileges and immunities.

ARTICLE 11:

The Representatives of the member States of the Commission shall benefit from immunities and privileges established under article 5 section 11 of the United Nations Convention of 13th February 1946 on the privileges and immunities.

ARTICLE 12:

The privileges and immunities established under the present annex shall be in the interest of the Commission and not for their beneficiaries own profit. The Permanent Secretary shall hold up the immunity of any official, officer or expert in all cases where in his/her opinion, that immunity might hamper the law's action and may be held up without causing prejudice to the Commission's interests.

In the same conditions, the immunity of the Permanent Secretary shall be held up by the Conference of Ministers within the framework of an extraordinary session or through home consultation.

The Commission shall collaborate all the time with relevant authorities of the member

States with the view to facilitating a proper administration of the law, ensuring compliance with police regulations and preventing any abuse that might arise from the privileges, immunities and facilities enumerated in the present annex.

ARTICLE 13 :

Foreign experts connected with the Commission by virtue of a technical assistance, shall enjoy on the territory of the member States, the same immunities, privileges and facilities as those established for the Commission's officials and officers.

ARTICLE 14 :

Apart from the immunities and privileges provided under preceding articles, the Permanent Secretary himself/herself as well as his/her dependents, shall enjoy privileges, immunities, exemptions and facilities granted, in accordance with the international law, to diplomatic representatives.

TITLE III: FINAL CLAUSES

ARTICLE 15:

The provisions of the present annex shall be interpreted according to its objective which is to allow the Commission fully and efficiently assume its functions and attain its objectives.

ARTICLE 16 :

The Permanent Secretary may conclude with several member States, additional agreements aiming with regard to that (those) State (s) at fitting out the above provisions.

The additional agreements will, in each case, be submitted to the approval of the Conference of Ministers.

ARTICLE 17

The provisions of the present annex shall apply to any other country of the subregion which joins the Commission in accordance with article 17 of the Convention of 29th march 1985 establishing the Sub-Regional Fisheries Commission.

ANNEX II

**DIVIDEND KEY OF CONTRIBUTIONS TO
THE BUDGET OF THE PERMANENT SECRETARIAT
OF THE SUB-REGIONAL FISHERIES COMMISSION**

COUNTRIES	PERCENTAGE ASSIGNED
Cape Verde	13.30
The Gambia	13.30
Guinea	20.00
Guinea-Bissau	13.40
Mauritania	20.00
Senegal	20.00
TOTAL	100.00

Documents soumis par la CSRP à l'appui de la demande (suite)

- Règlement intérieur de la CSRP (non reproduit)
- Rules of Procedure of the SRFC (not reproduced)
- Statut du Personnel de la CSRP (non reproduit)
- Staff Regulations of the SRFC (not reproduced)

Documents soumis par la CSRP à l'appui de la demande (suite)

- Convention on the Sub-Regional Cooperation in the Exercise of Maritime Hot Pursuit

**CONVENTION ON SUB-REGIONAL COOPERATION
IN THE EXERCISE OF MARITIME HOT PURSUIT**

PREAMBLE

The Governments of:

- . the Republic of Cape Verde,
- . the Republic of The Gambia,
- . the Republic of Guinea,
- . the Republic of Guinea-Bissau,
- . the Islamic Republic of Mauritania,
- . the Republic of Senegal,

hereinafter referred to as the Parties;

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982;

Reaffirming their attachment to the objectives of the Convention of 29 March 1985 establishing the Sub-Regional Fisheries Commission;

Taking account of the adoption, on 14 July 1993, of the Convention on the conditions of access and exploitation of the fishery resources off the coasts of the Member States of the Sub-Regional Fisheries Commission;

Conscious of the necessity for joint efforts for an efficient protection and surveillance of the maritime waters under their respective jurisdiction;

Convinced that this collaboration should be made especially in the field, through an effective coordination of the activities

of the structures in charge of the monitoring of the protection and surveillance of fisheries, on land, at sea and from the air;

Conscious that this collaboration will be in favour of the interests of all the members of the Sub-Regional Fisheries Commission, which constitutes the natural framework for fisheries cooperation among the States of the sub-region;

HAVE AGREED AS FOLLOWS:

Article 1
(General objectives)

The objectives of this Convention are:

- (a) to lay down rules and modalities for the strengthening of cooperation among the structures responsible for fisheries surveillance of the State parties;
- (b) to define the general principles governing the right of hot pursuit when exercised by any State party with respect to any vessel operating in the waters under its national jurisdiction which, after unsuccessful summons to stop, attempts to evade the control exercised by an aircraft and/or a vessel on the service of this State;
- (c) to lay down fundamental principles concerning cooperation among the Parties in connection with the exercise of this right of pursuit, including the settlement of effects arising from the exercise of that right.

Article 2
(Definitions)

For the purposes of the present Convention and its protocols:

- the pursuing State is the State to whom the pursuing vessel or aircraft belongs;
- the State of refuge the State in whose national waters, the pursued vessel seeks refuge.

Article 3
(Principles relating to the right of pursuit)

Any vessel carrying out fishing activities in the waters under the jurisdiction of one of the States parties to the present Convention may be pursued and arrested by a vessel or aircraft of that State, when, after unsuccessful signals to stop, that vessel tries to escape the control of the pursuing State, beyond its maritime boundary.

The right of hot pursuit must not be interrupted:

1. without limit beyond the territorial sea;
2. within the limits of the territorial sea, in accordance with the limits agreed upon by the states through protocol.

The pursuing vessel and /or aircraft must communicate all relevant information to the authorities of the State of refuge, to which the pursued vessel navigates.

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Article 4**(Pursuit of vessels flying the flag of Member States
of the Sub-Regional Fisheries Commission)**

When the pursued vessel flies the flag of a State which is a member of the Sub-Regional Fisheries Commission, cooperation between the authorities of the pursuing State and those of the State of refuge will be carried out in accordance with the modalities set out in the implementing protocols as may be signed by the Parties.

All necessary measures will be taken to ensure that the State party, member of the Sub-Regional Fisheries Commission, of which the pursued vessel flies the flag, is duly informed of the administrative and legal procedures initiated by another State party, member of the Sub-Regional Fisheries Commission, against the vessel of its nationality.

Article 5**(Pursuit of vessels flying the flag of non-member States
of the Sub-Regional Fisheries Commission)**

When the pursued vessel flies the flag of a State that is not a member of the Sub-Regional Fisheries Commission and when, according to available information, it does not have a licence to fish in the waters of the neighbouring member State of the Sub-Regional Fisheries Commission, the collaboration between the authorities of the pursuing State and that of the State of refuge will aim at arresting the pursued vessel.

When the pursued vessel flies the flag of a non-member State of the Sub-Regional Fisheries Commission and when, according to available information, it carries out its activities within the framework of an agreement, collaboration between the activities of the pursuing State and those of the State of refuge shall aim at attaining the objectives set out in the protocols

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referred to in Articles 9 and 10.

Article 6

**(Apportionment and financing of charges arising
from the exercise of hot pursuit)**

The implementing protocols may define the criteria and modalities for the apportionment of charges arising from the exercise of the right of hot pursuit within the framework of this Convention and for their total or partial financing, through the penalties imposed with regard to the pursuing vessels.

Article 7

(Revision)

Any Party may submit to the other Parties, through the depository and the President of the Sub-Regional Fisheries Commission, proposals for the amendment of this Convention.

The amendments shall be referred to the Conference of Ministers and shall be approved unanimously by the Parties to the Convention. The amendments shall come into force in accordance with the procedure set out in article 13 of this Convention.

Article 8

(Denunciation)

This Convention may be denounced by any Party by notification to the depository who shall immediately inform the other Parties thereof. The Convention ceases to be in force with regard to that Party, six months after the date of notification of the denunciation to the depository.

SECRET (P. 1)

Article 9

(Modalities for the implementation of the Convention)

The present Convention shall be implemented by bilateral or multilateral protocols among the Parties. Implementing measures shall apply, in accordance with these specific protocols, to the vessels conducting fishing activities in the waters under the jurisdiction of the Parties.

Article 10

(Negotiation of the implementing protocols)

The Sub-Regional Fisheries Commission shall be informed, through its Permanent Secretariat, of negotiations initiated among the Parties for the implementation of this Convention and shall receive notification of the bilateral or multilateral protocols that might have been concluded.

Article 11

(Settlement of disputes)

Any dispute arising out of the interpretation or the application of this Convention, shall be referred to the Conference of Ministers of the Sub-Regional Fisheries Commission, unless the Parties concerned decide on another means of settlement.

Article 12

(Depository)

The Ministry of Foreign Affairs of the State hosting the headquarters of the Sub-Regional Fisheries Commission is the depository of this Convention. The depository:

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- (a) shall send certified true copies of this Convention to the States referred to in the Preamble;
- (b) shall transmit any proposal for the amendment of this convention to the President of the Sub-Regional Fisheries Commission, in accordance with article 7;
- (c) shall inform the States referred to in the Preamble:
 1. of the signature of this Convention and the deposit of the instruments of ratification in accordance with the provisions of article 13;
 2. of the date on which this Convention will come into force in accordance with article 13;
 3. of any proposed amendment to this Convention as well as of the adoption of any amendment by virtue of article 7.

Article 13

(Signature, ratification, entry into force)

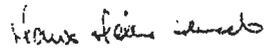
This Convention is open for signature by the States referred to in the Preamble of this Convention, with the Government of the State depository until 31 December 1993. The States that have signed the Convention may become Parties thereto by depositing an instrument of ratification, in accordance with their respective procedures.

This Convention shall come into force, with regard to the States that have ratified it, from the day on which the instruments of ratification of at least four States parties to the Convention have been deposited.

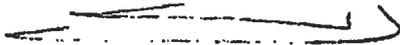
This Convention was done in four versions of Arabic, English, French and Portuguese, all versions being equally authentic.

Done in Conakry, Republic of Guinea, on 1 September 1993

For the Government of the
Republic of Cape Verde


Maria Helena Semedo

For the Government of the
Republic of Guinea



Ibrahima Sory Sow

For the Government of the
Islamic Republic of Mauritania

Abdallahi ould Abdi



For the Government of the
Republic of The Gambia


Sajo Touray

For the Government of the
Republic of Guinea-Bissau


Eduardo Fernandes

For the Government of the
Republic of Senegal


Abdourahmane Sow



COMMISSION SOUS-REGIONALE DES PECHE

DATE : . . / . . / . .

Pays :
Country :

PROCES VERBAL DE CONSTAT DE DELIT DE PECHE
MINUTES OF FISHING OFFENSE

I - RENSEIGNEMENTS SUR LE NAVIRE
INFORMATIONS ON THE VESSEL

- Nom du navire : Nationalité :
Name of the vessel Nationality
- Armateur / Vessel owner :
- Indicatif d'appel international :
International call sign
- Longueur : Largeur : Jauge brute :
length Width Gross tonnage
- Port d'attache / Home port :

II - RENSEIGNEMENTS SUR L'ARRAISONNEMENT :
INFORMATIONS ON THE ARREST

- Date . . / . . / . . Heure Lat N. Long
Hour Hour
- Nature de l'infraction
Nature of offense
- Position de détection : M Lat N. Long
Detection position
- Décision prise :
Decision taken

III - OBSERVATIONS :
REMARKS

Signature Signature

Le Capitaine du navire arraisonné Le Cdt du patrouilleur ou
l'Agent de contrôle

The Captain of the arrested vessel The commander of the patrol
boat or the Controller

Documents soumis par la CSRP à l'appui de la demande (suite)

- Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the Maritime Area under Jurisdiction of the Member States of the SRFC



**COMMISSION SOUS-RÉGIONALE DES PÊCHES
SUB-REGIONAL FISHERIES COMMISSION**

PERMANENT SECRETARIAT

**CONVENTION
ON THE DETERMINATION OF THE MINIMAL CONDITIONS FOR ACCESS AND
EXPLOITATION OF MARINE RESOURCES WITHIN THE MARITIME AREAS UNDER
JURISDICTION OF THE MEMBER STATES OF THE SUB-REGIONAL FISHERIES
COMMISSION (SRFC)**

June 2012

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

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Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

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The bottom of the page contains several handwritten signatures and initials. On the right side, there is a large, stylized signature that appears to be 'Jed'. Below it, there are several smaller, less legible signatures and initials, including what looks like 'J', 'M', and 'PCA'.

Convention on the Determination of the Minimum Conditions for Access and Exploitation of Marine Resources within the Maritime Zones under Jurisdiction of the Member States of the Sub Regional Fisheries Commission (SRFC)

The Government of the Republic of Cape Verde, the Government of the Republic of The Gambia, the Government of the Republic of Guinea, the Government of the Republic of Guinea Bissau, the Government of the Islamic Republic of Mauritania, the Government of the Republic of Senegal, the Government of the Republic of Sierra Leone ;

Considering the United Nations Convention on the Law of the Sea signed in Montego Bay on 10 December 1982, especially its provisions calling for the signing of regional and sub-regional cooperation agreements in the fisheries sector as well the other relevant international treaties;

Reaffirming their commitment in support of the principles and standards stipulated in the FAO Code of Conduct for responsible fishing;

Recalling their will to implement the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing endorsed in 2001 by the Council of the United Nations Food and Agriculture Organization (FAO);

Aware of the need to implement the international provisions on maritime safety and the preservation of the marine environment enacted by the International Maritime Organization (IMO);

Considering the Convention of 29 March 1985 on the establishment of the SRFC as amended in 1993 especially its provisions aimed at strengthening cooperation among SRFC Member States ;

Considering that the Convention of 14 July 1993 on the Determination of Conditions For Access and Exploitation of Marine Resources Off the coasts of SRFC Member States, has significantly contributed towards the harmonization of the fisheries policies and legislations of the States in the sub - region ;

Desirous of adapting the Convention of 14 July 1993 to the technical and legal changes that have taken place since its adoption, in particular with regards to the determination of conditions defining responsible fishing, the taking into account the ecosystem-based approach to fisheries for a sustainable management of resources, and the fight against illegal, unreported and unregulated fishing, in accordance with international law ;

~~*Aware* of the need to incorporate in their national legislations the provisions of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, approved by the FAO Conference in Rome in November 2009 ;~~

~~*Desirous* of ensuring that their policies and legislations are more effectively harmonized with a view to a better exploitation of fisheries resources in the maritime zones under their respective jurisdictions, for the benefit of current and future generations ;~~

Desirous of enhancing the socio-economic benefits arising from fishing to the countries and communities within the SRFC; by respecting the environment and by encouraging the practices of responsible fishing;

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

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Convinced of the need for SRFC conditions for the integration at sub-regional level of the policies and strategies of Member States, with a view to ensuring the preservation, management and sustainable exploitation of their fisheries resources;

Have agreed as follows:

PART 1: GENERAL PROVISIONS

Article 1: Objective

1. The objective of the present Convention is to review the provisions of the Convention of 14 July 1993 on the Determination of Conditions for Access and Exploitation of Marine Resources off the coasts of the Member States of the SRFC.

2. The present Convention is applicable to the maritime area under jurisdiction of the SRFC Member States.

Article 2: Definitions

For the purpose of the present Convention:

1. *Ecosystem-based Approach to Fisheries or Ecosystem Approach:*

The ecosystem-based approach to fisheries is a means of ensuring the sustainable development of the fisheries sector. It is based on current fisheries management practices and explicitly acknowledges the interdependence between human well-being and that of the ecosystem. This approach places particular emphasis on the need to maintain the ecosystem in a good state and improve its productivity so that the level of fisheries production is maintained or improved for the benefit of current and future generations,

2. *Precautionary Approach:* When it comes to fisheries management, the precautionary approach or principle is based on the premise that the absence of relevant scientific data on fisheries should not be a pretext for failure to adopt or to postpone adoption of fisheries management measures aimed at preserving targeted and untargeted species as well as associated or dependant species and their environment.

3. *Fishing Authorization:* means the attestation issued by the local authorities in charge of fisheries to enable vessels carry out fishing activities in a given zone and in line with specific conditions in an administrative act.

4. *Illegal, unreported and unregulated fishing or IUU fishing*

4.1 *«Illegal fishing»: fishing activities:*

- conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and

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management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or

- in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.

4.2 «Unreported fishing»: fishing activities :

- which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.

4.3 «Unregulated fishing»: fishing activities

- in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
- in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

5. Conservation and management measures: measures aimed at conserving and managing marine biological resources and adopted and applied in a manner that is compatible with the relevant rules of international law, including those stipulated in the present Convention.

6. Fishing vessels : Any vessel that is used for fishing or for that purpose including support vessels, commercial vessels, and any other vessel participating directly in fishing activities.

7. Support/Feeder vessels: vessels which supply logistics (fuel, food and spare parts ...) to fishing vessels and serve as storage space for fishing products. They are also used to support flotilla of artisanal fishing vessels which carry out fishing activities on behalf of a ship owner.

8. Support vessels means vessels which transport fuel and food for ships carrying out fishing activities.

9. Fishing vessels belonging to non-Member States or third Party States: fishing vessels operating under the flag of a State which is not a member of the SRFC or all vessels without nationality.

10. Factory vessels: vessels which can process, package and conserve fishing products caught on board or by a flotilla of vessels.

11. **SRFC zone:** area covered by the maritime areas under the jurisdiction of the Member States of the SRFC.

12. **Shared stocks:** stocks occurring within the exclusive economic zones of two or more coastal states or both within the exclusive economic zone and in an area beyond and adjacent to it.

PART II: ACCESS TO FISHERIES RESOURCES

Article 3: Authorization of access to surplus resources

1. Any Member State may, in conformity with international law, authorize access by fishing vessels belonging to non-Member States to the allowable surplus of resources in the maritime areas under its jurisdiction through agreements and other arrangements.

2. The duration of access shall be determined after receiving technical advice from the research institutions of the Member States.

3. In any event, the said agreements or other arrangements shall contain clauses on the adaptation to the allowed fishing effort according to the availability of resource, and in line with the principles of precautionary and the ecosystem-based approach.

4. Similarly, the agreements and other arrangements shall take into account the legitimate interests in particular those of the local fishermen and communities which survive exclusively or mainly on fishing.

Article 4: Obligatory landing

1. Article 4 : De l'obligation de débarquement des captures

1. The vessels of third States have the obligation to land all their catches in the ports of the Member State that delivered the fishing license.

2. Otherwise, appropriate measures can be taken depending on specific conditions prevailing in the Member State.

~~3. The obligatory landing is premised on the need to contribute to the supply of fisheries products to the populations and the processing units. Member States shall take appropriate incentives in order to facilitate and encourage the landing of their catches in their ports.~~

4. Unless exemption is granted, transshipments of catches shall only be allowed in harbors and roadsteads designated by Member States in cases provided for in the national legislation of the Member State.

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PART III: CONDITIONS OF CONSERVATION AND MANAGEMENT OF THE RESOURCE

Sub-part 1: Common Provisions

Article 5: Principle of the fishing license

Access to the fisheries resources of the maritime areas under jurisdiction of a Member State shall be dependent upon obtaining beforehand a fishing license issued by the State in question.

Article 6: Application for fishing licenses

1. For access to fisheries resources, applications for licenses shall be submitted by individuals or corporate entities in conformity with the national legislation or the provisions stipulated in the negotiated agreements or other arrangements.
2. Applications for licenses for industrial fishing vessels shall contain the basic information stipulated in *Annex I (A)* to the present Convention, without prejudice to the additional information required by national legislations.
3. Applications for licenses for artisanal fishing vessels shall contain the basic information stipulated in *Annex I (B)* of the present Convention, without prejudice to the additional information required by national legislations.

Article 7: Conditions for the issuance of fishing licenses

1. Fishing licenses shall be issued to vessels operating within the framework of an agreement or any other type of arrangement after confirmation that the relevant institution of the State in question adheres to the regulation on the registration and marking of vessels in force in the said State.
2. Fishing licenses shall not be issued as long as the conditions required by the said regulation are not adhered to by the applicants.
3. Licenses for industrial fishing vessels and artisanal fishing vessels shall contain the basic information stipulated in *Annexes II.(A) and II.(B)* respectively of the present Convention, without prejudice to the additional information required by national legislations.
- ~~4. In order to be issued licenses, industrial fishing vessels shall be equipped with a vessel monitoring device.~~
5. Factory vessels, support vessels and reefers must be regulated.
6. The original fishing license shall be kept on board the fishing vessel at all times.

Article 8: Validity period of fishing licenses

1. The validity period of fishing licenses shall vary according to the fisheries policy guidelines of the Member States or the characteristics of their fisheries sector.

2. In order to have a better knowledge of the catches taken from the maritime areas under jurisdiction of Member States and to ensure that the populations shall have access to regular supplies of fishing products, the validity period shall take into account the imperatives of a responsible and sustainable management of fisheries resources

Article 9: Fisheries management

1. In giving access to fishing vessels, the Member States shall take into account their national management and conservation measures and policies in relation to:

- the regulation of fishing zones and fishing periods, and if necessary the establishment of closed seasons and /or marine protected areas ;
- the protection of endangered and juvenile species ;
- the limitation of by-catches and the control of discards ;
- the respect of the provisions relating to fishing gears, and the minimum sizes and weights used in the SRFC zone ;
- the regulation of fishing effort ;
- any other relevant data or information.

2. Member States shall give priority to the establishment of concerted fisheries management plans for shared stocks.

Article 10: Data and information on fisheries operations

1. Any industrial fishing vessel operating in the waters under the jurisdiction of a Member State shall be bound to provide declarations of catches in the logbook containing the basic information stipulated in *Annex III* of the present Convention.

~~2. For artisanal fisheries, the States shall put in place a reliable system for data collection, jointly with all the stakeholders involved, in the form of a template containing the basic information stipulated in *Annex IV* of the present Convention.~~

Article 11: Minimum mesh size of fishing nets and other fishing gears

~~The minimum mesh sizes of nets and trawls used in artisanal fishing and industrial fishing vessels that is authorized in the maritime areas under jurisdiction of the Member States shall be stipulated in a protocol to the present Convention.~~

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Article 12: Prohibition

1. The use of the following substances, gear or equipments when carrying out fishing activities within the maritime area under jurisdiction of Member States shall be prohibited:

- explosives and toxic or intoxicating substances,
- mono filament nets,
- multi filament nylon,
- drift nets for industrial fishing

2. With regards to the other fishing gears and methods whose usage may compromise adherence to the standards for the conservation of the resource, the Member States shall adopt the necessary measures to limit or prohibit its use without prejudice to the standards on the minimum mesh sizes defined in the protocol referred to in Article 11 above.

Article 13: Registration, marking and identification of industrial fishing vessels

1. Member States shall regulate the registration and granting of the national flag to industrial fishing vessels, and appoint an appropriate competent authority to authorize registration and granting of the national flag to industrial fishing vessels.

2. The marking and identification of fishing vessels shall be carried out in accordance with the standards defined in the national legislations, through reference to the relevant legal international instruments.

Article 14: Declaration of entry and exit from the maritime area under jurisdiction of a Member State

1. Any fishing vessel entering or exiting the maritime area under jurisdiction of a Member State shall notify the relevant department of the Member State by radio or any other means, information on its entry and exit from the said maritime zone. Every Member State can regulate the time allowed for entrance and exit in the maritime areas under jurisdiction.

2. The notification shall be done at least forty eight (48) hours at least before the entry or exit of the vessel in the maritime area under jurisdiction of a Member State and shall contain the following basic information:

- the origin and destination of the vessel,
- the location of the vessel when the entry and exit declaration is made,
- the declaration of the quantity of catches on board per species,
- .

Article 15: Fishing vessels on innocent or transit passage

When on passage through the maritime area under jurisdiction of a Member State, vessel not authorized to fish; shall stow their fishing gear in a manner that it cannot be easily used whilst navigating through the said maritime area under jurisdiction.

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Article 16: Boarding of observers

- 1. Vessels licensed to fish, may only carry out fishing activities if at least one observer appointed by the fisheries department of the issuing State is present on the vessels.
- 2. Any observer on board a fishing vessel shall have the possibility to contact at all times his home administration when necessary.
- 3. The observer/inspector shall be charged with ensuring compliance with the fisheries regulation and to provide estimates of the catches on board. He shall have the right of access to all information required in the exercise of his duties.

Article 17: Boarding of local sailors

- 1. A vessel flying the flag of a country that is not an SRFC member party authorized to operate in the maritime area under jurisdiction of a Member State must allow registered sailors who are citizens of the State in the waters of which the vessel is operating to board.
- 2. The number of local sailors to be boarded shall be determined by mutual agreement between the flag State or its representative and the Member State, or through the legislation of the said State.

Article 18: Compliance with international conventions on maritime security and protection of marine environment

Fishing vessels authorized to operate in the maritime area under jurisdiction of a Member State must comply with the relevant provisions of international Conventions in effect on maritime security and protection of the marine environment of the International Maritime Organization (IMO) as well as the provisions of the International Labor Organization (ILO) on employment in the fisheries sector (C.188, 2007).

Article 19: Register of fishing vessels

1. Each Member State shall keep a national register in electronic form of fishing vessels licensed to carry out fisheries activities. A separate register shall be held of vessels having been engaged in illegal, unreported and unregulated fishing activities within its waters. This registers shall be coordinated and managed by the national fisheries department.

2. A sub-regional database of fishing vessels shall be established under the auspices of the Permanent Secretariat of the SRFC. The content of this database and the modalities for its publication shall be stipulated in a memorandum of understanding between the SRFC Permanent Secretary and the relevant authorities in each Member State.






Sub-part II: Special provisions applicable to artisanal fisheries**Article 20: Characterization and definition of artisanal fisheries**

1. Artisanal fisheries means fishing activities carried out with vessels which comply with all or the majority of the following characteristics:

- technical specifications: undecked gear, of low power and/or small size,
- fishing gear: not mechanically controlled,
- means of propulsion : manual, mechanical or wind turbine,
- means of conservation : ice or salt,
- fishing zone close to the shore.

2. This definition shall be without prejudice to the particular options provided for in the national legislations on specific points with regards to the definition of artisanal fisheries.

Article 21: Registration, identification and marking of artisanal fishing vessels

1. For artisanal fishing vessels, specific standards especially for registration, identification and marking shall be laid down in the legislation of the State granting a flag to these vessels. The standards shall aim at ensuring, *inter alia*, more effective identification of vessels at sea and improving the collection of data on catches from such types of fishing activities.

2. The Member States shall establish registers of artisanal fishing vessels to ensure close monitoring of artisanal fishing activities.

Article 22: Safety at sea in the artisanal fisheries

1. Member States shall adopt appropriate provisions to provide safety at sea for artisanal fisheries in accordance with the relevant international conventions especially the obligation to use safety equipments, (including life jackets, beacons, etc..)

2. Member States shall ensure that these equipments are used.

Article 23: Regulation of access to artisanal fishing

Member States shall put in place a common system of regulation of access for the artisanal fishing, and shall define the basic conditions of access to this category. This system will be agreed in a future protocol in accordance with Article 35 of the present Convention.

Article 24: Protection of artisanal fisheries through the MCS systems

The Monitoring, Control and Surveillance (MCS) systems of fisheries within the competence of the Member States are strengthened to enhance the protection of areas exclusively reserved for artisanal fisheries.

PART IV: PORT STATE MEASURES AND THE FIGHT AGAINST ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING

Article 25: Strengthening the fight against IUU fishing

1. Member States shall commit themselves to take all the necessary measures to prevent, deter and eliminate illegal, unreported and unregulated fishing.
2. To this end, they shall strengthen cooperation to fight against IUU fishing, in accordance with international law.
3. In that regard, Member States shall:
 - carry out joint surveillance operations ;
 - allocate a significant proportion of proceeds derived from fines, transactions and confiscated items to strengthening fisheries management, research and surveillance activities ;
 - work towards putting in place a sub-regional training and capacity building programme for managers, observers and surveillance agents;
 - shall detain and facilitate the return of any vessel that has committed fishing offence(s) in the maritime area under jurisdiction of another Member State.

Article 26: Designation of ports authorized to receive third State party fishing vessels

1. Member States shall designate and publicize ports where third State fishing vessels may request entry.
2. These ports shall be selected on the basis of their technical capability to inspect third State fishing vessels. The competent authority of each Member State shall conduct inspections on a regular basis.
3. The designated ports, shall, where possible, allow for inspections provided for in the provisions of international conventions on the control of vessels by the port State.
4. Third State fishing vessels shall be authorized to use port services and carry out landing and transshipment operations in designated ports only.

~~5. The list of the said ports shall be communicated to the SRFC Permanent Secretary.~~

~~***Article 27: Information to be provided by third State party fishing vessels before arrival at port***~~

1. Third State party fishing vessels must communicate to the port authorities beforehand their time of arrival as well as information required by the regulation of the port State, in particular:

- the name and technical specifications of the vessel,
- purpose for its entry into the port,
- the quantity of catches to be landed,
- the expected dates and time of arrival.

2. Except for reasons observed by international laws, the above information shall be communicated at least forty eight (48) hours in advance of the expected time of entry.

3. Upon arrival in port, the logbook containing the basic information indicated in *Annex III* of the present Convention shall be initialed and signed, and availed to fisheries inspectors and controllers as well as any other official authorized for that purpose as part of the monitoring of vessels by the port State.

Article 28: Information to be provided by vessels engaged in related activities before arrival at port

1. Vessels engaged in additional activities shall be bound to provide information required by the State port, in particular:

- the reason for entry to the port (transshipment, bunkering...),
- the quantities of catches on board, for transshipment or for shipment;
- the type and volume of bunkering products,
- the date of entry and duration of stay.

2. The above information shall be communicated at least forty eight (48) hours in advance. However, Member States can regulate the time allowed to communicate its information.

Article 29: Refusal of entry, landing, transshipment and other services to vessels engaged in IUU fishing

1. Entry in the port States shall be denied for vessels found or suspected to have been engaged in or supported IUU fishing

2. Landing and transshipment of catches shall not be authorized for vessels which have engaged in or supported illegal, unreported and unregulated fishing activities within or outside the waters under the jurisdiction of the port State. Such vessels shall not benefit from the said services.

3. In case of docking at the port of a vessel which have engaged in or supported IUU fishing activities, the catch should be confiscated in favor of the State where these catches have been made.

4. The measures referred to in the above paragraph shall be communicated to the Permanent Secretariat of the SRPC, Member States and the flag State, if known.

Article 30: Fishing activities outside the maritime area under jurisdiction of the flag State

~~Member States shall ensure that vessels navigating under their flag shall carry out fishing activities beyond their exclusive economic zones only if the said vessels are duly authorized to that effect.~~

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PART V: INFRINGEMENTS AND PENALTIES***Article 31: Infringements and penalties***

1. The following infringements shall be integrated in the national legislations of the Member States:

- unauthorized fishing ;
 - fraudulent or non declaration of catches ;
 - non-respect of minimum mesh sizes
 - non-boarding of observers ;
 - non-boarding of local sailors ;
 - refusal of communication of entries and exits of vessels from the maritime zone of the Member State ;
 - non communication of information to be provided by third State party fishing vessels upon arrival at the port, the tentative fishing plan, the zone of operation and location ;
 - non-respect of standards of registration and marking of vessels ;
 - engaging or supporting IUU fishing activities.
 - fishing in prohibited zones
 - fishing immature fish
 - use of toxic products and explosive
 - fishing in prohibited zones or during prohibited periods ;
 - minimum mesh sizes ;
-
- mesh obstruction ;
-
- capture, retention, offloading, transshipment and sale of prohibited specie(s.) ;
 - unauthorized fishing outside the waters under the jurisdiction of the flag State ;
 - fraudulent declaration of the physical specifications of the vessel, the type of fishing activity or on the target species ;
-
- fishing through the use of prohibited gears and substances ;
 - failure to comply with measures relating to biological rest periods, protected marine areas, sensitive fish spawning areas.

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

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2. In the event of repetition of offence by a fishing vessel in one Member State of the infractions above, the withdrawal of the fishing license or increased penalties, without prejudice to sanctions provided for by the internal legislation of the State shall be pronounced.

Article 32: Repetition of infringements

1. In the event there is a repetition of an infringement by a vessel of the legislation of a Member State and a conclusive sanction has been pronounced, the vessel is banned from fisheries activities for one year in all maritime zones under jurisdiction of the Member States, as from the date when the ban is communicated to all Member States in accordance with sub article 2.

2. The ban shall be communicated to Member States by the Chairperson of the SRFC Conference of Ministers, upon proposal, duly justified, by the Permanent Secretariat of the SRFC. The name of the vessel owner or agent and banned vessel shall be recorded in the registers referred to the aforementioned Articles 19 and 21.

3. The ban notice to the vessel owner or agent shall be prepared by the authorities of the State where the repeated infringement was committed.

PART VI: FINAL PROVISIONS

Article 33: Submissions of matters to the International Tribunal for the Law of the Sea for Advisory Opinion

The Conference of Ministers of the SRFC may authorize the Permanent Secretary of the SRFC to bring a given legal matter before the International Tribunal of the Law of the Sea for advisory opinion.

Article 34: Settlement of disputes

1. Any dispute on the interpretation or implementation of the provisions of the present Convention shall be brought before the Conference of Ministers of the SRFC.

2. Disputes shall be settled amicably through conciliation, mediation or arbitration.

~~3. Any dispute which shall arise amongst Member States on the interpretation or implementation of the provisions of the present Convention, which may not be resolved through the afore-mentioned procedures, shall, on the request of one of the parties, be brought before the International Tribunal for the Law of the Sea.~~

Article 35: Implementation Protocols

~~Additional protocols shall specify, where necessary, the applicable management and conservation measures.~~

Article 36: Annexes

The annexes to the present Convention shall form an integral part thereof.

Article 37: Review of the Convention

1. The present Convention may be reviewed by the Conference of Ministers of the SRFC following a submission to that effect by at least three Member States.
2. Any requests for review shall be informed and addressed to the current Chairperson of the Conference of Ministers of the SRFC.

Article 38: Denunciation

1. A State Party may, by written notification addressed to the current Chairperson of the Conference of Ministers of the SRFC, denounce this Convention and may indicate its reasons for denunciation. The denunciation shall take effect six months after the date of receipt of the notification, unless the notification specifies a later date.
2. The obligations and commitments under the current Convention ends at the expiration of the date of written notification by the Chairperson of the Conference of the Ministers to the requesting Member State

39: Signing of the Convention

The present Convention shall be signed by the Ministers in charge of fisheries of the Member States by 31 July 2012

Article 40: Entry into force

The present Convention shall enter into force hundred days after the date of signature by all the Member States.

Article 41: Repeal of contrary past texts

The present convention shall repeal and replace the Convention of 14 July 1993 on the Determination of Conditions for Access and Exploitation of Marine resources Off the coasts of the SRFC Member States.

Done in Dakar on 08 June 2012 in English and French.

The Arabic and Portuguese version of the revised MAC Convention will be available at a date not later than July 31, 2012. All four versions being equally authentic.

IN WITNESS WHEREOF, THE UNDERSIGNED PLENIPOTENTIAIRES, DULY AUTHORIZED TO THAT EFFECT, HAVE SIGNED THE PRESENT CONVENTION:

For the Government of the Republic
of Cape Verde



For the Government of the Republic
of the Gambia

Hon. Kebha TOURAY

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

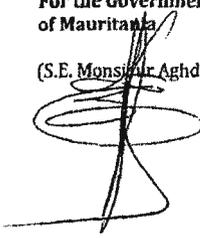
For the Government of the Republic of Guinea



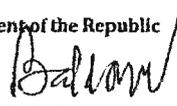
S.E. Monsieur Moussa CONDE

For the Government of the Islamic Republic of Mauritania

(S.E. Monsieur Aghdhefna Ould EYIH)



For the Government of the Republic of Guinea-Bissau



S.E. Monsieur Oscar BALDE

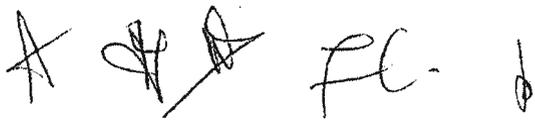
For the Government of the Republic of Senegal

S.E. Monsieur Fane DIOUF



For the Government of the Republic of Sierra Leone

Hon. Mrs Ferchmusu KONTEH



ANNEX I

BASIC INFORMATION TO BE INCLUDED IN APPLICATIONS FOR FISHING LICENSES

I-(A) BASIC INFORMATION TO BE INCLUDED IN APPLICATIONS FOR INDUSTRIAL FISHING LICENSES

For official use only	Comments
Nationality :
Fishing License Number:
Date of Signature:
Date of Issue :



Capacity of ramps :

TYPE OF FISHING

A - Coastal Demersal Fishing

Fishing Option

Shrimps Fish and Cephalopods Longlines

Type of Engine : Fishing Trawler Shrimps Trawler Longline

1 - Length of Trawler: Length of Boat Rope:
 Opening mesh of the pocket... Wings

2 - Length of line : Number of hooks :
 Number of lines : Size of hooks :

B - Deepwater Demersal Fishing

Fishing Option

Shrimp Fish Longline

Spiny Lobster Pot Deep Crab Pot

Type of engine : Shrimps Trawler Fishing Trawler Longline

Deep Crab Pot Spiny Lobster Pot

1 - Length of Trawler: Length of Boat Rope:
 Opening mesh of the pocket Wings

2 - Length of line: Number of hooks:
 Number of lines: Size of hooks:

3 - Number of pots: Material:
 Length (base diameter): Width (top diameter) :
 Point Diameter: Opening (mesh) :

C - Coastal Pelagic Fishing

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

[Handwritten signatures and initials]

[Handwritten signature]

[Handwritten initials]

[Handwritten initials]

[Handwritten initials]

[Handwritten initials]

Fishing Option

Seiner Trawler

Type of engine : Pelagic Trawls Seine

1 - Length of trawler: Length of Boat Rope:
 Opening mesh of the pocket

2 - Length of the seine : Height of the seine :
 Dimension of the mesh (stretched) :

D - Deep Sea Fishing

Fishing Option

Seine Pole-and-Line Vessel

Lining Vessel (tuna) Lining Vessel (swordfish)

Type of engine : Seine cane Surface Longline

1 - Length of the seine: Height of the seine:
 Dimension of the mesh (stretched) :

2 - Number of canes:

3 - Longline :

Length of line: Number of hooks:
 Number of lines: Size of hooks:
 Number of tanks: Capacity in tons:

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I- (B-) BASIC INFORMATION TO BE INCLUDED IN APPLICATIONS FOR ARTISANAL FISHING LICENSES

Validity 1	2
3	4

Country of origin.....

Landing Pier..... :

Home Port:

Name (s) of owner:

Company Name:

Profession:

Address:

Name of vessel:

Registration Number:

Year built:

Material:

Wood Aluminium Fiber Glass

Other (specify):

Dimensions:

LengthWidthDepth

Number of Fishermen on board

N°

Oars Sail Engine

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

[Handwritten signatures and initials]

If outboard engine:

Main engine Additional Engine

Type : Type:

Power : Power :

Onboard

Type.....

Power.....

Fishing Category:

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC)

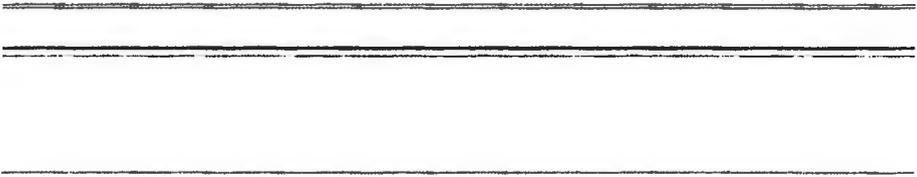


ANNEX II

BASIC INFORMATION TO BE INCLUDED IN THE FISHING LICENSES

II- (A) BASIC INFORMATION TO BE INCLUDED IN INDUSTRIAL FISHING LICENSES

For Official Use Only	Comments
Nationality :
Fishing License Number :
Date of Signature :
Date of Issue :



Handwritten signatures and initials: a large signature on the right, and several initials (including 'A', 'H', 'W', 'FCI') at the bottom.

APPLICANT

Company Name :
Company Registration Number
Registre de commerce :
Company Executive :
Date and Place of Birth:
Profession :
Taxpayer Identification Number:
Address:
Telephone : Email :
Number of Employees: Permanent: Part-time:
Name and address of Co-Signatory:
Annual Turnover:

NAME OR COMPANY NAME OF LOCAL REPRESENTATIVE

ADDRESS :

VESSEL

Type of vessel :	Registration Number:		
New Name:	Former Name:		
Date and place built:			
Nationality of Origin:			
Date taken to flag:			
Provisional:	Deadline :	Final:	
Length :	Width :	Depth:	
Type of construction material:	Rock Anchor :		
Make of main engine:	Type :	HP :	
Propeller :	Fixed <input type="checkbox"/>	Controllable: <input type="checkbox"/>	Nozzle: <input type="checkbox"/>
Transit speed:			
Call code:	Call frequency:		
Means of navigation, detection and transmission :			
Radar <input type="checkbox"/>	Echosounder, sonar <input type="checkbox"/>	VHF Radio <input type="checkbox"/>	
Satellite Navig. <input type="checkbox"/>	Sonar Boat Rope <input type="checkbox"/>	HF Radio, BLU <input type="checkbox"/>	
Automatic Pilot <input type="checkbox"/>	(Net sound) <input type="checkbox"/>	Telex <input type="checkbox"/>	
Route Marker <input type="checkbox"/>	Scanmar <input type="checkbox"/>		
Other :			

Number of sailors: Nationals: Foreigners:

Convention on the Determination of the Minimal Conditions for Access and Exploitation of Marine Resources within the maritime areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC);

bed

MODE OF CONSERVATION

Ice	<input type="checkbox"/>	Refrigerated ice	<input type="checkbox"/>	Refrigerated sea water	<input type="checkbox"/>
Freezing : brine	<input type="checkbox"/>	Dry	<input type="checkbox"/>		
Freezing capacity in tons per 24 hours:					
Capacity of ramps:					

TYPE OF FISHING
A - Coastal demersal fishing

Fishing Option

Shrimps Fish and Cephalopods Longline

Type of engine : Fishing trawler Shrimps trawler Longline

1 - Length of trawler: Length of boat rope:
 Opening mesh of the pocket Wings

2 - Length of line: Number of hooks:
 Number of lines: Size of hooks:

B - Deepwater demersal fishing

Fishing option

Shrimps Fish Longline

Spiny lobster pot Deep crab pot

Type of engine: Shrimps trawler Fishing trawler Longline

Deep crab pot Spiny lobster pot

1 - Length of trawler: Length of boat rope:
 Opening mesh of the pocket Wings

2 - Length of line : Number of hooks:
 Number of lines: Size of hooks:

3 - Number of pots: Material :
 Length (base diameter) : Width (top diameter) :
 Point diameter: Opening (mesh) :

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the right and several smaller ones below.

C - Coastal Pelagic Fishing

Fishing option

Seiner Trawler

Type of engine : Pelagic Trawls Seine

1 - Length of trawler: Length of boat rope:
 Opening mesh of the pocket

2 - Length of seine : Height of seine:
 Dimension of mesh (stretched):

D - Deep Sea Fishing

Fishing Option

Seine Pole-and-line vessel

Lining vessel (tuna) Lining vessel (swordvessel)

Type of engine : Seine cane Surface Longline

1 - Length of seine : Height of seine:
 Dimension of mesh (stretched) :

2 - Number of canes :

3 - Longline:

Length of line: Number of hooks:

Number of lines: Size of hooks:

Number of tanks: Capacity in tons:

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II-(B) BASIC INFORMATION TO BE INCLUDED IN ARTISANAL FISHING LICENSES

Country of origin.....
 Landing Pier..... :
 Home port:
 Name (s) of owner:

 Company name:
 Profession :
 Address :
 Name of vessel :
 Registration Number:
 Year built:
 Fishing LICENSE N° :

Material :
 Wood Aluminium Fiber Glass
 Other (specify):

Dimensions :
 LengthWidthDepth.....

Category :
 Number of fishermen on board

MEANS OF PROPULSION

Oars Sail Engine

If outboard engine:

Main engine Additional engine

Type: Type:

Power: Power:

Inboard

Type.....

Power.....

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ANNEX III

BASIC INFORMATION TO BE INCLUDED IN THE LOGBOOK

Name of vessel :

Nationality :

Fishing License N°:

Tidal duration :

1 **DAILY DATA** (Day... Month... Year...)

2 DATA ON ENGINE WEDGES

- Time.....
- Position.....
- Depth.....

3 DATA ON ENGINE BANDS

- Time.....
- Position.....
- Depth.....

4 SPECIAL COMMENTS

- Targeted species
- Rejects.....

The Vessel Captain

IV- (B) MINIMUM INFORMATION TO FIGURE ON DATA COLLECTION FORM FOR THE ARTISANAL FISHING

138

Inquiry from Sea on return Date :

day	month	year	2	0	

Zone of inquiry :

--

 Fishing Base/site

--

 Landing point

--

Landing time.

H	end

H	

 Nr inquiry returns (in a session) :

--

 Inquiry time :

H	

 Time of return:

H	

Principal characteristics of landings

Registration Numb.

--

 Home Port

--

Type of boat : wooden boat fiber.boat alumin. boat steel boat
 canoe motorboat lanche/a-mare artisanal boat don't know

Total length :

	m

 Engine power :

	HP

 Use of a boat annex ? Yes

Data sheet of a fishing trip :

Date of départ. to sea

day	month	

 Time depart. to sea (if day):

H	

either

D

 in sea (or

H

 in sea) If several trips a day tick

If trip « fishing day » Departing from : here somewhere (in the last case, state :

--

)

Charter : Oui Non Effective crew:

--	--

 Quantity of ice used:

--	--

 Quantity of Fuel used:

--	--

 Type of fuel : Petrol Diesel

Convention on the Determination of the Minimal Conditions of Access and Exploitation of marine resources within the areas under jurisdiction of the Member States of the Sub-Regional Fisheries Commission (SRFC) - June 2012

AVIS CONSULTATIF - CSRP

Handwritten notes and signatures on the left margin:
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 A signature.
 The number "20" written vertically.
 Another signature.

Time spent on land by boat before a trip:

<24 h 24 h to 47 h if more J

Origin of product offloaded :

Quantity of offloaded product : quantity none if none : why ():

damage / equipment problem only installation of gear weather/sea

Abandon due to no fish Abandon due to human resource problem other

Si non nulle : origin of offloaded product (multiple possible reponses) :

Fished using boat: self Collected from AF Collected IF

Fished using boat with a group of other boats doing the same type of fishing.

The quantity offloaded here correspond to the total catch in days by the group.

Characteristics of activities during the trip :

Nr of fishing days d

in: North West Sud East Duration: H

Situation of zones : visited inshore offshore > 10 km Occur. rejects Occur. tranship.vers tiers

Names of zones visited: Z1 : Z2 : Z3 :