

INTRODUCTION

This working paper is prepared in direct response to recommendation¹ number 16.9 (point no. 8) of the 13th ordinary Session of the Conference of Ministers of the Members of the Sub-Regional Fisheries Commission. The SRFC wishes to explore the feasibility of such agreements, including the fishery management, social, economic, legal and technical characteristics of such agreements with a view to establishing an agreed sub-regional policy position and cooperative process on foreign fishing access agreements.

During the preparation of the Sub-Regional project AFR/013, and upon the instruction of the donor (Lux Development), the issue of sustainable financing of sub-regional surveillance and other activities was raised by the mission with the fisheries ministers of each of the Member States. As a result of these discussions, a number of options were presented, one of which involved the financing of sub-regional activities through possible contributions from access agreements², explaining why this exercise is undertaken within the scope of project FAO/GCP/INT/722/LUX - AFR/013.

It is stressed that this study is a working document prepared to initiate a process of thought and reflection on the long-term future of the fisheries access agreements in the sub-region. The document expresses the views of the consultant and does not represent the views of the Member States of the SRFC, or the Permanent Secretariat. It is meant to assist the fisheries managers of the region to address some of the transboundary issues involved in the management of sub-regional fishery resources and fleets. The document seeks to balance national and sub-regional interests while also taking account of the likely reaction of the distant water fishing nations (DWFNs) with which such agreements may eventually be negotiated. However no discussions were held with representatives of the DWFN during the preparation of the working paper.

The study was carried out during May/June, 2000 with a view to establishing the basic options and principles for such agreements. The consultant visited a number of the countries in the sub-region, but due to lack of time and air travel logistics was unable to visit all countries. Consequently some of the information presented needs to be verified, or completed at a national level in order to give all Member States a clear regional overview of the role of the foreign fishing activities. The numerical values given in this working paper are generally drawn from primary sources, such as published national fisheries statistics, where available. However, the values should be regarded as indicative, presented to reflect orders of magnitude and trends, rather than definitive official values.

The consultant wishes to thank the President of the Council of Ministers of the SRFC, His Excellency Mansa Moussa Sidibé, and the numerous individuals in the fisheries administrations and fishing industries of the region who allocated time and effort to the consultant. The study would not have been possible without the support and assistance of management and staff of the Permanent Secretariat of the SRFC and the staff of the FAO project FAO/GCP/INT/722/LUX - AFR/013.



¹ Extract translated from French: "explore all means for the joint negotiation of fishing access agreements".

² See Annex to project document.

1. SUMMARY AND RECOMMENDATIONS

1.1. FOREIGN FISHING IN THE SUB-REGION

Between 670 and 700 fishing vessels bearing the flag of non-Member States (designated "distant-water fishing nations/ vessels", or DWFN) operate³ under various types of access agreements within the waters under the fisheries jurisdiction of the Member States⁴ of the Sub-Regional Fisheries Commission. An estimated additional 96 fishing vessels bearing the flag of SRFC Member States fish in the waters of other Member States (designated "sub-regional vessels"). A further 600 SRFC Member State flag industrial fishing vessels operate their flag state waters and principally target the demersal resources.

Three distinct groups of fish resources are the targets of the access agreements in the Sub-Region. These are the demersal fisheries, including whitefish, cephalopods, and crustaceans; the small pelagics; and the tuna resources.

The most important foreign fleets targeting the demersal fisheries bear the flags of Spain, China and Korea; those targeting the small pelagics bear the flags of Russia, Ukraine, flags of convenience, and of the Netherlands. The tuna fisheries are dominated by the Spanish, Japanese and French fleets. The industrial fleets fishing for small pelagics and tuna are comprised almost entirely of distant-water vessels

The total foreign vessel catch and catch value is not known but the declared catch is provisionally estimated to be in the order of at least 340 million US\$ per year. An additional catch with an estimated⁵ value of 166 million US\$ per year is caught illegally in the waters of the Member States of the SRFC.

Access to the sub-region's fish resources for non-national vessels is provided under three principal regimes:

- access agreements with compensation, and/or licence payments,
- charter agreements, and
- bilateral arrangements between SRFC Member States (usually reciprocal).

The access agreements usually take the form of a long-term 'framework' agreement, which set out the basic principles of access, associated with short-term protocols, which set out the detailed arrangements and may include references to charter arrangements. The framework agreements may also refer to other forms of cooperation, including joint research, training, development assistance, and trade.

1.2. THE PROBLEM

The objective⁶ of the SRFC is to harmonise Member States fisheries policies and to strengthen their cooperation. The common long-term objective of the individual Member States is to fully, but responsibly, exploit their fisheries resources using national assets (vessels, manpower, companies).

However, up to 50% of the industrial fishing vessels operating in the sub-region are foreign flag vessels. Thus access agreements are likely to remain an important instrument of fisheries control, management, and revenue generation for the Member States in the foreseeable future.

³ in 1999.

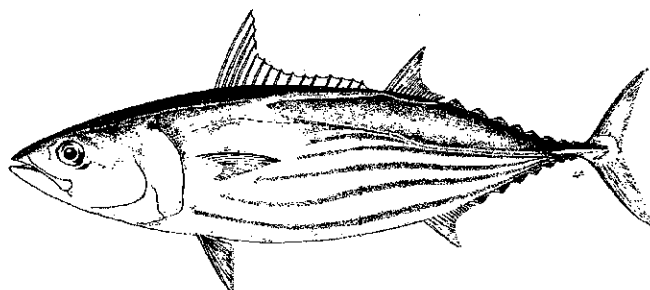
⁴ Cape Verde, Gambia, Guinea, Guinea Bissau, Mauritania and Senegal.

⁵ See Annex for calculation which assumes that no illegal catches are reported.

⁶ Article 2 of Convention.

ACRONYMS AND ABBREVIATIONS

SRFC	Sub-Regional Fisheries Commission (CSRP)
Member States	Member States of the SRFC: C. Verde, Gambia, Guinea, G. Bissau, Mauritania, Senegal.
Straddling Stocks Agreement	Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating of the Conservation and Management of straddling Stocks and Highly Migratory Species
Compliance Agreement	Agreement to Promote Compliance with International Conservation and Management measures by fishing vessels on the High Seas
Code	Code of Conduct for Responsible Fisheries
Sub-regional waters	the waters under the fisheries jurisdiction of the Member states of the SRFC
foreign (fishing) vessel	A fishing vessel bearing the flag of a state <u>other than</u> a Member State of the SRFC
DWFN	Distant Water Fishing Nation, this is used in the context of any non-SRFC state and refers either to the flag state, or its representative fishing association
sub-regional (fishing) vessel	A fishing vessel bearing the flag of a Member State of the SRFC, but authorised to fish in the waters of at least two (i.e., one other) Member States.
SRFC access convention	Convention relative to the determination of conditions of access and exploitation of the fisheries resources off the coasts of the Member States of the SRFC
SRFC hot pursuit convention	Convention on Sub-Regional cooperation in the exercise of hot pursuit
SRFC surveillance convention	Protocol relative to the practical modalities of coordination of surveillance operations in the Member States of the SRFC
Conditions	Harmonised Minimum Terms and Conditions of Access for Foreign vessels
EU	European Union
ACP	Africa. Caribbean, pacific
Japan Tuna	
ICCAT	International Commission for the Conservation of Atlantic Tunas
FFA	South Pacific Forum Fisheries Agency



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DISCLAIMER

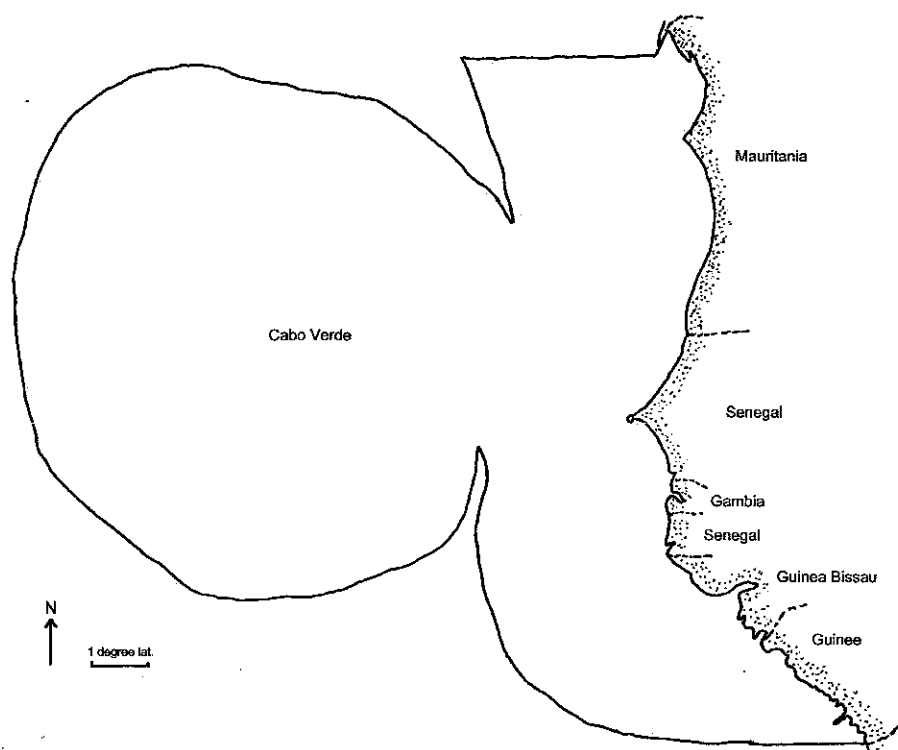
The designations employed and presentation of material in this working paper do not imply the expression of any opinion whatsoever on the part of the FAO concerning the legal status of any country, territory, city, or area of its authorities, or concerning the delimitation of its frontiers or boundaries.

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**THE DESIGN OF
A SUB-REGIONAL FOREIGN FISHING ACCESS REGIME
FOR WEST AFRICAN FISHERIES**



WORKING PAPER

prepared for the

SUB-REGIONAL FISHERIES COMMISSION

by

**Kieran Kelleher
Dakar, July 2000**

Member States do not have identical objectives with regard to foreign fishing activities, but have sufficient common interests to justify the development of a joint, or harmonised foreign fishing access regime.

The DWFN have, in general, no long-term vision for the fishing agreements and simply seek to continue to optimise fishing possibilities, secure fish supplies, and benefit from economic opportunities afforded by the Member States through fishing agreements. Many distant water vessels have a comparative advantage over vessels of the Member States through more sophisticated technology, greater knowledge, through subsidies, through vertical integration, and the ability to rapidly shift fishing operations between countries and fisheries in accordance with the changing nature of the fisheries economies and resource availability.

The problem is to design effective means by which the Member States may, through their joint efforts⁷, control and manage foreign fishing and increase the benefits from foreign fishing in the Sub-Region.

These joint efforts of the Member States require a clear target and process leading to a common negotiating position. The target proposed is a 'common access regime for foreign fishing'. This common regime is likely to take several years to design and institute. The regime would require additional conventions, or protocols between the Member States and improved administrative arrangements at the sub-regional level. The main external instruments of the common regime would be harmonised fisheries access agreements concluded between the Member States and the DWFNs.

This working paper attempts to describe such internal and external arrangements as a basis for dialogue in the Sub-Region.

1.3. JUSTIFICATION FOR A COMMON ACCESS REGIME FOR FOREIGN FISHING VESSELS

A common access regime implemented through sub-regional fisheries access agreements concluded between the collective Member States of the Sub-Regional Fisheries Commission and non-member states, or fishing associations, can benefit all parties concerned.

Member States benefits include:

- economic, social, and structural benefits,
- improved management of transboundary fish resources,
- more effective control of highly mobile foreign fleets, and
- avoidance of potential future fisheries disputes regarding transboundary fisheries.

A sub-regional agreement may provide an increase in the direct revenues (compensation payments and licence fees) to the Member States, though it is not possible to claim that such an increase will occur, as the compensation payments often represent a substantial subsidy paid by the DWFN to its fishery sector. These subsidies place the national fleets at a disadvantage, promote overfishing, and are contrary to responsible governance of the fisheries. However, a minimum level of access fees may be secured by the joint efforts.

Employment and landings of fish in the coastal state may be increased. A clear sub-regional approach to foreign fishing may improve the investment climate required for creation of joint ventures and direct foreign investment, add stability to these fisheries, and create a basis for long-term planning of the optimum usage of these resources by the SRFC Member States.

A sub-regional access agreement facilitates the sustainable management of the transboundary resources, and can greatly enhance the ability of the coastal states to monitor and control the highly mobile foreign fishing fleets.

⁷ See footnote 1.

In contrast, the absence of a common regime for foreign fishing means that the Member States may compete to attract foreign vessels, which can exploit to advantage the differences and inconsistencies between the individual national access regimes.

A proportion of the fishing access fees generated under sub-regional access agreements can make an important contribution to the budget of the SRFC, rendering the organisation more effective and giving a measure of permanence and financial sustainability to sub-regional initiatives.

Perhaps most important, the exercise of developing a joint sub-regional foreign fishing access regime is an important focal point for practical sub-regional cooperation and responsible use of the fish resources. The joint approach can also help define and differentiate the role of development assistance in relation to the access agreements.

For the DWFN, a common sub-regional access regime offers the numerous opportunities. Clearer principles applicable to the long-term future of the access arrangements can be defined, allowing distant water operators to adjust their business practices appropriately. Fleets which fish seasonally and move between the waters of the Member States will have added flexibility to follow concentrations of fish. Standardised set of technical regulations can be applied to the various types of fishing operations, and standardised administrative and reporting procedures can be applied. The common regime offers the opportunity to establish common procedures for landings, transshipment, local crewing, vessel repair and supply. Such measures can help reduce the costs of fishing within the Sub-Region.

1.4. STEPS TO A COMMON ACCESS REGIME

There are two closely linked steps in the establishment of a coordinated sub-regional approach to fisheries access agreements with the distant water fishing nations (DWFN):

- a) Step I is a harmonised, or cooperative approach leading to the establishment of harmonised conditions of access for foreign vessels to the Sub-Region. This can be further developed into -
- b) Step II, an integrated approach, leading to the negotiation of joint, or sub-regional access agreements for transboundary fisheries.

The basic elements of both approaches are considered in this working paper. It is recommended that the SRFC support both approaches, which are overlapping and complementary. Step II effectively represents the further development of Step I.

Step I means that the Member States must re-examine the existing Sub-Regional protocol⁸ on conditions of access to formulate a far stronger and more targeted and effective instrument. The harmonised approach involves the setting of common harmonised minimum terms and conditions of access for foreign fishing vessels to the waters under the jurisdiction of the Member States (sub-regional waters). Member States can agree on:

- a) the principles of access,
- b) the technical conditions governing fishing (e.g., permitted vessels and gear),
- c) the monitoring and control mechanisms,
- d) the minimum level of fees and the manner in which fair and equitable fees may be calculated, and
- e) the role and nature of other forms of fisheries cooperation with the DWFNs and its relationship with the access agreements.

⁸ Convention relative a la determination des conditions d'acces e d'exploitation des ressources halieutiques au large des cotes des Etats Members de la Commission Sous-Regionale des Pêches.

Ideally, the minimum terms and conditions would be established in a framework agreement between the Member States and the DWFN. Subject to the harmonised minimum terms and conditions of access, each Member State could then conclude separate access agreements with the DWFN, or the representative national fishing organisation.

Step II is a further development of Step I for certain fisheries where fish stocks have a major transboundary dimension, in particular for the tuna and possibly (at a later stage) for the small pelagics fisheries. In the longer term, and, the Member States may move towards agreement on the sharing of transboundary fish resources, with particular attention to the level of foreign fishing permitted.

For these transboundary fisheries a mechanism would be created, whereby all Member States are party to a single access agreement, under which a single sub-regional fishing licence would be issued to authorised vessels. For example, presently each Member State separately issues a tuna purse seine licence to the same vessel, which may purchase a licence in all six Member States. Under Step II the six national fishing licences would be replaced with one sub-regional licence and an internal agreement between Member States on the sharing of the licence revenues. Based on the best available scientific advice, sub-regional limits on fishing can be proposed and applied, if considered necessary.

In this manner, the access agreements for the transboundary fisheries would be sub-regional in nature, while those for the more sedentary resources, e.g., the demersal fisheries would be national as regards their economic character and permitted level of fishing, but based on harmonised sub-regional principles and technical conditions of access.

1.5. THE ARCHITECTURE OF A COMMON ACCESS REGIME

1.5.1. The political commitment

A common access regime requires clear political commitment on behalf of the Member States as the building of the common access regime may require compromise. Half measures and lack of active support will result in failure. Consequently a clear joint statement of political commitment is required. Because the issues involved impinge on a broad spectrum of national concerns, including finance, law, territorial boundaries, and international relations, such a political commitment should be made at the level of the heads of state. Any lesser level of commitment may be undermined by internal and external forces.

Such a statement would commit the countries to a process, rather than to a particular solution. Purely as a basis for discussion a draft statement is provided in the following Box 1.

1.5.2. The internal Sub-Regional instruments

Based on such a firm political commitment the **guiding principles** for foreign fishing in the Sub-Region must be established. This set of guidelines, or basic policy framework should also be approved in due course at the level of the heads of state. The principles will draw on three established foundations:

- international maritime and fisheries law,
- the existing fisheries conventions and protocols between Member States,
- and international best practice.

The internal **architecture** of the common regime should then be agreed in outline. This architecture will have the following major components:

- clear definitions of the scope of the common regime in terms of fleets, resources, economic, social and trade issues,
- a set of agreed minimum terms and conditions of access for foreign vessels,
- the internal arrangements between the Member States, which must be clear and unambiguous before proceeding to address

- the external instruments, namely, the structure and process for the arrangements between the Member States and the DWFNs.

Box 1. Draft statement of political commitment by the Member States of the SRFC to the creation of a common access regime for foreign fishing (example only).
<p>Recognising</p> <ul style="list-style-type: none"> • various multilateral instruments (Law of the Sea, etc.), • the need for rational and responsible exploitation of the fisheries resources for the benefit of the peoples of the Member States, • the existence of the SRFC and associated protocols and conventions, • the efforts by Member States to harmonise their fisheries regimes, • the need for more effective control of foreign fishing, • the need to establish a durable and equitable framework for cooperation with DWFN; <p>Aware that Member States have different objectives, we, the heads of government of the Member States of the SRFC:</p> <ol style="list-style-type: none"> 1. Declare a commitment to a process to establish a common regime for access by non-Member State fishing vessels to the waters and fishery resources of the Sub-Region. 2. Instruct the SRFC prepare an action plan to establish such a common regime based on mutual consent between the Member States. 3. Commit to the timely delimitation of all international maritime boundaries between Member States based on accepted international practice. 4. Commit to the ratification and implementation of international agreements and conventions for the responsible management of fisheries, in particular the Straddling Stocks and Compliance agreements. 5. Commit to the financing of core sub-regional activities leading to the establishment of the common access regime.

1.5.3. The external Sub-Regional instruments - the access agreements

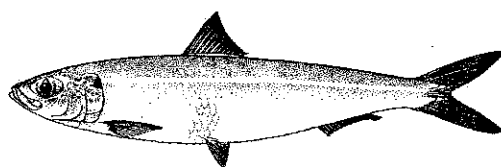
Three main types of external instruments, or access agreements are envisaged:

- a framework agreement between all Member States and a DWFN (or a representative fishing association);
- subject to the common framework agreement separate protocols between an individual Member State and a DWFN mainly for demersal fisheries, and
- subject to the common framework agreement, joint protocols between the collective Member States and a DWFN, in particular with regard to transboundary fisheries.

1.6. A STEP-BY-STEP PROCESS

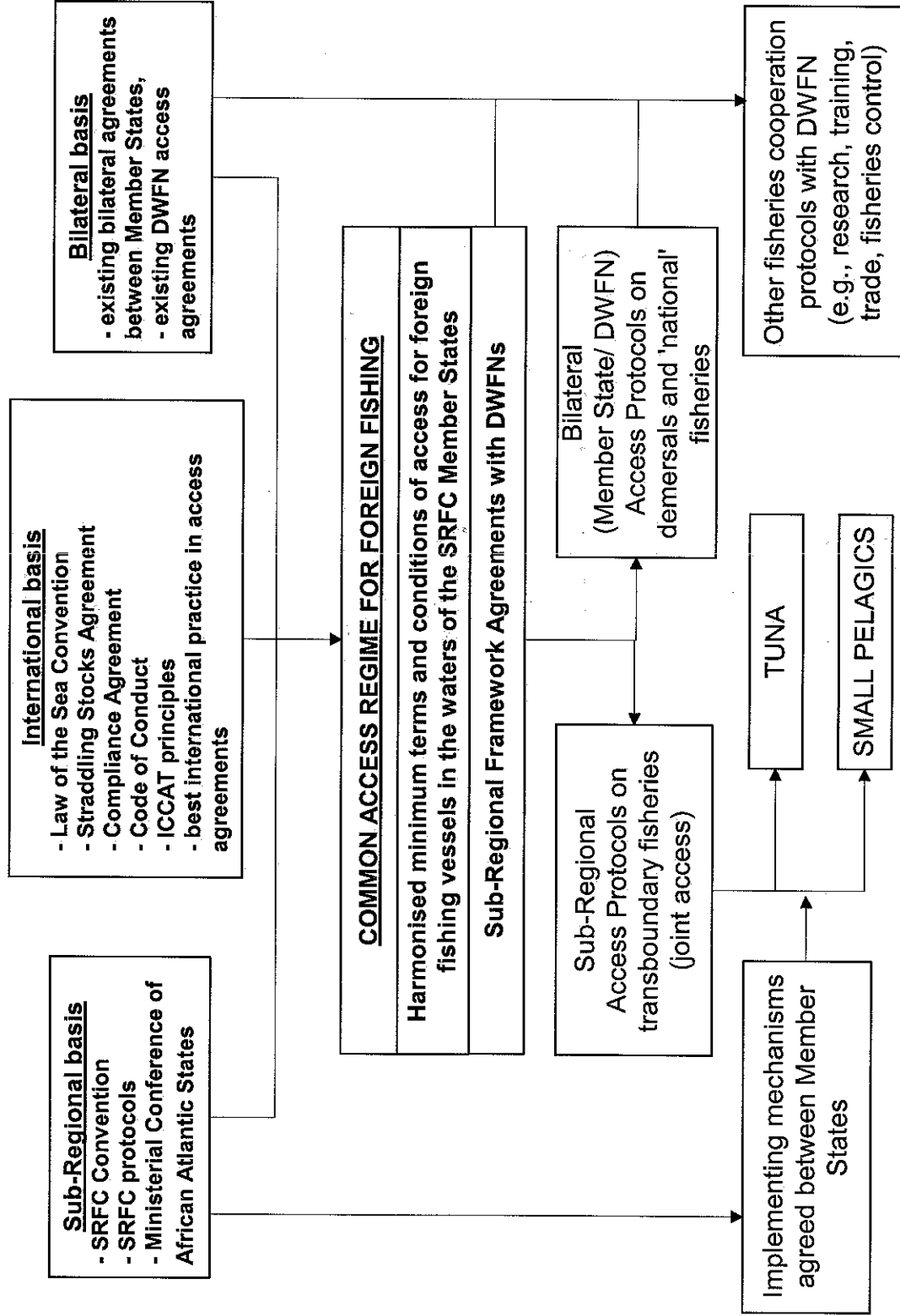
This working paper is simply the first step in a process. The following is an outline of the process.

The first step in the process is to establish an agreement in principle at the technical level regarding the basic principles of a common access regime and an outline plan and timescale for the process. Those issues which are soluble should be addressed while complex international issues outside the immediate competence of the fisheries administrations (such as maritime boundaries) may be placed on a longer-term agenda.



Possible steps in the process of establishing a common access regime

Step	Process	Outcome
Initiation		
1. Awareness and consensus at the technical level	<ul style="list-style-type: none"> SRFC meetings / seminars 	<ul style="list-style-type: none"> Draft principles of access Draft action plan for common access regime
2. Approval of principles and action plan by SRFC	<ul style="list-style-type: none"> briefings/ meeting of Council of Fisheries Ministers (SRFC) 	<ul style="list-style-type: none"> Approved principles of foreign fishing access Approved action plan to establish a common regime.
3. Endorsement by SRFC heads of State	<ul style="list-style-type: none"> Appropriate sub-regional meeting (e.g. during OAU/ ECOWAS/ or similar occasion) 	<ul style="list-style-type: none"> Formal statement of intent by Member States (principles and action plan) motion of support at pan-African level
4. Reinforcement of the SRFC secretariat and work plan	<ul style="list-style-type: none"> financing of action plan/ finance from NGOs, non-DWFN establishment of prioritised long-term SRFC work plan and linkages with other sub-regional projects 	<ul style="list-style-type: none"> A more effective sub-regional agency working to specific plans, priorities and timetable
Action plan		
1. Defining the boundaries of the common access regime for foreign vessels	<ul style="list-style-type: none"> Data collection, analysis, studies. Preparation of proposals and discussions at technical levels. 	<p>Clear definition of the fleets and fisheries to be involved, the role of transshipments, landings, charter arrangements, crewing and other economic benefits.</p>
2. Internal 'housekeeping' by Member States	<p>Individual Member State actions:</p> <ul style="list-style-type: none"> acceding to and implementing relevant international fisheries conventions; payment of Member State dues to the SRFC attention to maritime boundary issues. 	<ul style="list-style-type: none"> All Member States party to the Straddling Stocks and Compliance agreements SRFC financially solvent
3. Definition of the minimum terms and conditions	<ul style="list-style-type: none"> technical discussions and negotiations preparation and approval of SRFC protocol on minimum terms and conditions 	<ul style="list-style-type: none"> binding set of minimum terms and conditions for access by foreign vessels review of existing SRFC protocols and their implementation
4. Comparative examination of national legislation with a view to implementing the minimum terms and conditions	<ul style="list-style-type: none"> updating of previous work (but with clear objectives in focus) negotiations to render national legislation more harmonious drafting of model clauses 	<ul style="list-style-type: none"> national legislative instruments (fisheries laws) effective in a sub-regional context
5. Development of strategic plan / coordination of existing access agreements	<ul style="list-style-type: none"> preparation of renegotiation schedules for existing access agreements joint (all SRFC Members) discussions with major DWFN(s) 	<ul style="list-style-type: none"> timescale / strategy for the introduction of the common access regime negotiated formal presentation of proposals to the DWFN(s)
6. Make linkages made with other processes	<ul style="list-style-type: none"> research SRFC position on subsidies and trade matters in relation to access agreements build links with EU/ ACP process; WTO process 	<ul style="list-style-type: none"> contribute to a clear view of the long-term role of DWFN access agreements in a 'global fisheries economy' Sub-Regional position/ action re ICCAT, FAO Council, etc.



SCHEMATIC REPRESENTATION OF BASIS AND FORM OF THE COMMON ACCESS REGIME

2. RATIONALE FOR THE COMMON ACCESS REGIME

2.1. THE OBJECTIVES OF A COMMON ACCESS REGIME FOR FOREIGN FISHING

A common access regime for foreign fishing has three principal objectives for the Member States:

- improved and sustainable economic benefits for the Member States,
- improved conservation and management of the fisheries resources, in particular,
- enhanced control of fishing activities.

A common access regime can also contribute to several of the objectives of the DWFN through:

- creation of a more stable and enduring relationship between coastal states and DWFN,
- fostering a common fisheries management ethic and responsible practice,
- providing greater administrative and operational flexibility in fishing operations, and
- stabilising fish supplies and prices in the longer term, through more cost-effective fleet deployment, improved conservation, and increased net economic benefits for all parties.

2.2. INCREASING THE ECONOMIC AND SOCIAL BENEFITS TO THE MEMBER STATES

Not only does foreign fishing provide benefits to the Member States, but it also incurs numerous hidden costs. The main benefits derived from the foreign fishing include:

- direct payments by the DWFN,
- other direct benefits, such as research and training which are associated with the access agreements,
- landings of fish,
- purchase of goods and services,
- employment and on-board training,
- taxes,
- trade, and
- investment.

The costs to the coastal states include:

- depletion of fish resources,
- negative effects on national fishing activities, including reduced catch levels, destruction of fishing gear, reduction in available food supplies, loss of business opportunities, loss of training opportunities, reduced opportunities for the associated industries such as boatbuilding and fish processing, lack of space in national ports,
- negative impact of foreign fishing on supplies and prices for national industry,
- negotiation and administration of agreements, including not only the direct costs, but also the demands of the access agreements on the time and energies of senior Member State officials,
- monitoring and surveillance of fishing activities,
- unfair competition from (subsidised) landings of DWFV by-catch for local consumption,
- loss of tax revenue and loss of potential foreign exchange,
- other indirect, or intangible negative effects, including a reduction in the artisanal catch and a fall in the economic well being of the fishing communities, nutritional effects through the reduction in fish availability and consumption, and structural effects on the fishery economy through closures of fish plants, or support industries.

Empirical assessments of the costs and benefits of the fishing agreements have been largely incomplete studies⁹ due to lack of key economic information. Such a study could be undertaken as a contribution to the 'common regime process'.

The total direct payments for access made by the DWFN to the Member States have not been estimated during this study. There is considerable year-to-year variation as the as some agreements are not renewed. Payments are generally not based on a calendar year which also makes estimates of sub-regional payments difficult. Details of payments made under charter and similar arrangements are also difficult to obtain. As noted above little current information exists on the indirect benefits and the costs of the access agreements.

The key question is not the cost benefit of the access agreements, but whether a joint sub-regional approach will yield additional benefits to the Member States. No clear answer can be made. However the following points can be weighed in making such an assessment.

The main direct benefits (compensation and license fees) are from the agreements with the EU. The level of EU payments depends not only on the actions of the Member States, but also on the political processes in the EU. At the level of the European Parliament, there is a general wish to reduce the subsidy element of the 'southern'¹⁰ access agreements. However, the large numbers of Spanish distant water vessels displaced from Moroccan waters add to pressures on EU fisheries and increase political support for the 'southern' agreements. As a result the SRFC Member States are in a strong position to move towards a long-term process for the replacement of simple access agreements with a more permanent, stable, and sustainable economic relationship on these fisheries.

Change inevitably creates 'winners' and 'losers'. The success in transforming the access agreements into a more sustainable fishery economy depends also on available investment, infrastructure, and human resources in each Member State. The development of commercial relationships between Member State enterprises will be an important parallel component of a common access regime and will help in the equitable distribution of benefits among the Member States.

Some of the main benefits will accrue from a decrease in the negative effect of the agreements, largely through more effective control of fishing activities, and an opening of commercial opportunities for fishing enterprises and services in the Member States leading to increased landings, employment, processing, and food supply.

2.3. ECONOMIC AND SOCIAL BENEFITS FOR THE DWFNs

A common regime can form the basis of a stable long-term access relationship. A phased reduction can be planned for the overcapacity in the distant-water fleets combined with development of business opportunities and continuity of fish supplies. Fleets will have added flexibility to follow concentrations of fish. Standardised set of technical regulations can be applied to the various types of fishing operations, and standardised administrative and reporting procedures can be applied. The common regime offers the opportunity to establish common procedures for landings, transshipment, local crewing, vessel repair and supply.

⁹ Christy, 1979. Attempt to provide an empirical calculation of the benefits from the agreements (FAO document); Kébé, M. and Deme, M., 1991. Benefices économiques tirés des accords de pêche dans les pays côtiers africains: cas du Sénégal. Inst. Sen. de Recherche Agric., CRODT 1991; Kelleher, M. K., 1997. Assessing the impact of foreign fishing agreements in West Africa. In: 'Fisheries Access Agreements in West Africa' GCP/RAF/302/EEC; Black, W. L., 1983. Soviet fishing agreements with the developing countries. Benefit or burden? Marine Policy, July, 1983; CECAF, 1988. Elements for an analysis of the economic impact of foreign fleets on the economies of the coastal countries in the CECAF area. CECAF/FD/88/Inf. 9. Douala 1988; Johnstone, N., 1996. The economics of fisheries access agreements: Perspectives on the EU-Senegal case. IED Discussion Paper 96-02.

¹⁰ The 'southern' EU access agreements are generally based on payments, while the 'northern' (i.e., north Atlantic) agreements are largely reciprocal in nature.

These initiatives can help reduce the costs of fishing within the sub-region and increase the net benefits of fishing.

2.4. CONSERVATION OF RESOURCES

A common access regime is not only feasible, but necessary for the long-term health of the fisheries, in particular for the fisheries for tuna, highly migratory species (HMS) and small pelagics which require a coherent international regime for effective management. In particular common technical measures¹¹ can be applied and limits set to fishing by foreign vessels.

A common position with respect to ICCAT will be of advantage to the Member States. As some Member States are not members of ICCAT, the Permanent Secretariat of the SRFC can represent their views formalised through the common regime.

Fuller and more complete information on the industrial fishing for small pelagics is likely to generate a greater understanding of the dynamics of the species complex, in particular the impact of foreign fishing on the artisanal fishery and on local food supply.

The common regime offers an instrument through which consolidated scientific information¹² relevant to the management of the sub-region's fisheries can be applied. The common regime will oblige the Member States to consider the fish resources and the fleet capacity on a sub-regional basis rather than as discrete, or unrelated units. Serial overfishing (i.e., a fleet overfishes one area and then moves to another) is more likely to be prevented.

2.5. HARMONISING THE DIFFERENT INTERESTS OF THE MEMBER STATES

Member States have different views of the role of the access agreements. In several Member States the direct revenue (compensation payments and license fees) are a vital component of the national revenue and foreign exchange. In others employment, fish supply, and sale of services is of importance.

All Member States plan to make full use of their fisheries resources in the long-term¹³. There is an essential common interest in transferring technology, market access, and access to finance from the DWFN to the Member States. Negotiation and compromise will be required during the process of establishment of the common regime. Success will only be through a common, long-term vision equitable arrangements between the Member States and some compromise by the more powerful fishing Member States in the interests of the common good.

2.6. SUPPORTING SUB-REGIONAL ACTIVITIES

Many of the sub-regional activities are donor financed. Income derived from fishing agreements concluded at the sub-regional level can provide direct finance for core sub-regional activities. In other words a small percentage of the total revenue derived by the Member States from the access agreements would be paid directly to the SRFC to finance an agreed programme of activities.

The Member States through the SRFC would determine the nature and extent of these core activities. The DWFNs would support these activities on the basis that the activities are of fundamental importance to the sustainable exploitation of the sub-region's fisheries.

In addition to the basic functions of the Secretariat of the SRFC, the following may be considered as core activities at the sub-regional level:

¹¹ Technical measures already exist for minimum mesh sizes for shrimp, fish and pelagic trawls (see Annex II of the SRFC Convention on Conditions of Access and annex to this working paper).

¹² E.g., through SIAP and prospective projects on the Canary Current LME.

¹³ Countries such as Morocco, Namibia, South Africa and Mozambique no longer have access agreements (although some foreign fishing does occur, usually under charter, or similar arrangements).

- the establishment of the maritime boundaries,
- harmonisation of policies and preparation of sub-regional action plans,
- harmonisation of certain legislative provisions among the Member States,
- monitoring, control and surveillance of transboundary stocks and fishing activities,
- coordination of scientific activities for the purposes of obtaining best scientific advice on the state of the fish stocks, in particular on transboundary stocks and their dependent ecosystems,
- coordination of development plans for transboundary fishing activities and fish trade,
- human resources development, and
- participation in international fisheries organisations and relevant international initiatives.

3. LEGAL BASIS FOR A COMMON ACCESS REGIME

3.1. INTERNATIONAL LEGAL BASIS

There is an adequate international legal basis on which sub-regional cooperation in the matter of access agreements may be based. These international legal foundations include:

- The Law of the Sea Convention, in particular Articles 55-75 dealing with the EEZ, and Annex I which defines 'highly migratory species' (copy in annex to this working paper).
- Agreement For The Implementation of the Provisions 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, 1995 (Straddling Stocks Agreement).
- Agreement to Promote Compliance with International Conservation and Management measures by Fishing Vessels on the High Seas (Compliance Agreement).
- The principles set out in the ICCAT Convention
- Best international practice - e.g., Nauru Agreement and related efforts by the coastal states of the South Pacific to manage the tuna resources of that region.

Box 2.

Selected principles applied to the management of transboundary fisheries.

States have a duty to cooperate in the management of transboundary fish stocks (Agenda 21, Chapter 17; also Law of the Sea Convention, e.g., Articles 63 & 64).

Harmonised management measures should cover the entire range of a fish stock and take account of its biological unity and characteristics, e.g., migration routes (Straddling stocks agreement¹⁴).

Management measures should take account of existing international measures and arrangements (Straddling stocks agreement).

[Parties should] ... define and identify appropriate management units (Agenda 21, Chapter 17).

...ensure that ... measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors (Straddling stocks agreement).

.... guided by the following principles: (a) The precautionary principle, by virtue of which ... decisions shall not be postponed on the ground that scientific research has not fully proved a causal link ... (b) The polluter-pays principle; ... (c) ...resources shall be managed so that the needs of the present generation are met without compromising the ability of future generations to meet their own needs. (Convention on the Protection and use of Transboundary Watercourses and International Lakes, 1992).

Although not a legal instrument, the Code of Conduct for Responsible Fisheries also provides an international consensus on best practice in relation to fisheries in general. The Code makes use of the

¹⁴ Agreement For The Implementation of the Provisions 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, 1995.

'precautionary principle' and reference points¹⁵. The reference points serve as key indicators of the state of the fishery and serve as a direct link between the management objective and the management actions required.

With regard to access agreements with the EU, Title III, Article 66¹⁶ of the Lomé IV Convention makes specific reference to a regional approach to fisheries access and effectively obliges the EU to support the SRFC Member States in such an endeavour.

3.2. SUB-REGIONAL LEGAL BASIS

On a sub-regional level, the legal and para-legal basis for a common approach to foreign fishing has been well established through:

- The SRFC Convention and the three subordinate conventions and protocols, namely -
- Convention relative to the determination of conditions of access and exploitation of the fisheries resources off the coasts of the Member States of the SRFC,
- Convention on Sub-Regional cooperation in the exercise of hot pursuit,
- Protocol relative to the practical modalities of coordination of surveillance operations in the Member States of the SRFC,
- The bilateral fisheries agreements concluded between Member States.

Preamble of the SRFC Convention preamble refers to "harmonisation of policies in ... exploitation of the fisheries resources of the Sub-Region", while Article 2 states that the objective of the SRFC is to "undertake a long-term harmonisation of the Member States' policies as regards fisheries resources, and to strengthen cooperation for the benefit of their respective populations".

The SRFC Convention on the Conditions of Access¹⁷ is however a relatively weak convention and requires considerable improvement in order to render it an effective instrument for sub-regional cooperation on fisheries access agreements. The improvements required are discussed in more detail below under the principles of access and the minimum terms and conditions of access.

The maritime boundaries between certain Member states have not been formally agreed (e.g., through a treaty, or agreement). This may present certain difficulties when administering a joint fisheries agreement. However, practical interim solutions can be found if Member States have the political will.

The Member States have several types of fisheries agreements. Most of these agreements fall into the following broad classes:

- framework agreements setting out a broad (generally bilateral) understanding on fisheries. In addition to clauses on access, these agreements often refer to other forms of cooperation in trade, scientific research, training and development assistance,
- reciprocal agreements which are usually bilateral framework agreements concluded between Member States and allow for fishing by vessels of each Member State in the others waters,
- bilateral protocols, which are generally subsidiary to the framework agreements and set out the detailed terms and conditions under which foreign fishing is permitted,
- commercial agreements under which foreign vessels are chartered by Member State local agents, or companies. These agreements, in particular those with companies from (former) centrally planned economies have often evolved from arrangements with the state companies of these DWFNs.

¹⁵ "... regional fisheries management organisations should, on the basis of the best scientific evidence available, ...determine: stock specific [target] reference points, andthe action to be taken if they are exceeded" (Art. 7.5.3).

¹⁶ "The Community and the ACP States recognise the value of a regional approach to fisheries access and shall support moves by ACP coastal States towards harmonised arrangements for access for fishing vessels."

¹⁷ Convention relative a la determination des conditions d'acces e d'exploitation des ressources halieutiques au large des cotes des etats membres de la Commission Sous-Regionale des Peches.

- cooperation agreements between the Member States, in particular those on hot pursuit and surveillance. A particularly interesting agreement is that under which Guinea Bissau and Senegal share the fisheries resources of the common zone.

A complete listing of the relevant fisheries agreements and conventions concluded by the Member States is presented in the Annex. A number of principles and measures described in the following sections are derived from these agreements.

3.3. NATIONAL LEGAL BASIS

On a national basis each Member State has already declared a 200-mile exclusive fishing zone and enacted the relevant legislation to enable vessels to be licensed to fish in the zones. All Member States have had fully functional fisheries access agreements and have the necessary legislative instruments for their administration.

There is considerable variation in the fisheries legislation in each country. However at least three countries (C. Verde, Guinea, Mauritania) are moving towards the use of a management plan for each fishery as a central instrument in the management and control of their fisheries.

Details of the Member State fisheries legislation have already been compiled¹⁸ on a sub-regional basis. The text of this valuable document should be updated and kept current by the SRFC Secretariat¹⁹ as a necessary working document of the action plan. A comparison of some key legislative provisions are provided in the Annex.

An effective common access regime can be established with out any derogation, or loss of the sovereign rights of the Member States, but will require greater harmonisation of Member State legislation, i.e., changes to the fisheries legislation in some Member States. These changes are likely to be related more to the administrative procedures governing fisheries, rather than to any of the principles on which Member State fisheries legislation is based.

The following are areas in which legislative changes may be required:

- definition of a foreign fishing vessel/ vessel operator;
- definition and treatment of foreign vessels 'based in' a Member State;
- definition and licensing of foreign flag chartered vessels;
- levels of penalties;
- infractions in other Member States under a sub-regional access regime to be considered as infractions against the law of the Member State.

4. THE ELEMENTS OF A SUB-REGIONAL FRAMEWORK AGREEMENT

A sub-regional framework agreement can serve as the primary focus of the common access regime. Such an agreement would set out the principles and technical specifications under which the Member States permit access to their fisheries resources by foreign vessels. The framework is considered under four main themes:

- the social and economic principles of access,
- the biological, or resource conditions of access,
- the technical terms and conditions of access, and
- the financial terms and conditions of access.

¹⁸ N'Diaye, B. and Nkaktcham Yonga, J.C., 1996. Synopsis des législations des peches du Cap-Vert, de la Gambie, de la Guinée, de la Guinée-Bissau, de la Mauritanie et du Senegal. GCP/RAF/302/EEC. Doc. 35.

¹⁹ Each Member State should contribute the updated version of its legislation in the format of this report.

4.1. THE PRINCIPLES OF ACCESS FOR FOREIGN VESSELS

The following principles are suggested as a basis for access by foreign fishing vessels:

- foreign fishing activities will be carried out in a responsible manner and will not unduly prejudice the biological health of the target stocks, or the ecosystem,
- foreign fishing activities will not have significant negative impacts on the fishing activities by national vessels,
- the DWFN recognises that foreign fishing activities under access agreements will progressively be replaced by commercial arrangements and will take measures to assist this process,
- fair and equitable compensation will be paid to Member States for foreign fishing opportunities and catches.

4.1.1. Sustainable level of fishing

A range of texts²⁰ can be drawn upon to specify a sustainable and responsible level of fishing. Under the LOS Convention²¹ and in accordance with the precautionary principle, the Member States may specify conservation measures including precautionary TACs in order to determine an appropriate fishing capacity and a TAC(s) for the foreign fleet(s).

The DWFN should cooperate fully with the Member States to ensure the sustainable use of the fish resources. There should be full, accurate and timely disclosure of all DWFN catch and effort and scientific information. This information, in its original form should be the property of the Member State(s) and be used to generate the best scientific advice on the state of stocks, their conservation and management measures.

The DWFN should use all available technical means to minimise the catch of non-target species and preserve ecosystem integrity.

The Member States and the DWFN should collaborate fully to ensure a sustainable level of fishing, responsible fishing practices, and agreed international measures to control fishing and related activities.

4.1.2. Economic impacts, comparative advantage, and the 'level playing field'

Foreign fishing in the sub-region is largely an 'offshore' economy. Capital equipment, supplies, and crews are procured outside the sub-region. Commercial transactions (e.g., transshipments) are often 'offshore', or outside the banking and taxation system. An essential long-term step in capturing the benefits of the foreign fishing is to bring the economic activities of the industrial fishery onshore.

The meaning of the term 'onshore' must be clearly understood. It does not mean that the fish must be physically landed in the sub-region. It does not mean that the fleet must be owned by companies, or citizens of the Member States. Rather, it means that the economic transactions take place as an integral part of the Member States' economies. This means that all fish is exported and goes through customs. It means that supplies to the fleet are imported and that the companies operating the fleets operate as companies registered in the Member States.

It also means that Member States incur a number of onerous obligations: ensuring that the sanitary certification process is functional; ensuring effective import and export procedures; ensuring that the banking system can meet fishing company requirements with respect to the inflow and outflow of large sums of hard currency; and ensuring that supplies of fuel, fishing gear, and services are competitively priced (this may mean a harmonised set of import tariffs for key supplies).

Thus a key economic principle of the framework agreement is to have the DWFN committed to a gradual process of bringing the fishing operations 'onshore'. This requires a partnership with both

²⁰ E.g., the Code of Conduct, the Straddling Stocks Agreement.

²¹ Articles 61 & 62 of the Law of the Sea Convention.

national and DWFN industry. Stable relationships are needed with responsible industry partners willing to make long-term commitments to the fishery and the economy; willing to transfer technologies and skills; providing access to markets; and accessing finance to develop the onshore regime. On the other hand the DWFN vessel operators need a stable and efficient business environment and fair and equitable treatment.

Many distant water fishing vessels operate under economic and fiscal regimes which give such vessels a comparative advantage over locally based vessels. These are direct, or indirect subsidies which promote uneconomic levels of fishing. The subsidies include:

- compensation payments such as those paid by the EU under its access agreements, and a resulting failure to internalise the cost of access to the resource,
- capital grants for the purchase of fishing vessels,
- comparative tax advantages/ concessions, e.g., vessels located in disadvantaged areas of the EU,
- rights to purchase duty-free fuel in Member State ports (whereas national vessels generally do not have such rights),
- import price support schemes,
- linkages of access agreements with development assistance,
- other forms of state support, in particular for Asian vessel operators, and countries operating state-owned fishing companies.

The key principle is to ensure that all vessels in a given fishery operate on a 'level playing field'. This means a commitment by the DWFN to progressively remove subsidies. Application of this principle will result in a reduction of direct compensation payments to the Member States, but a likely increase in licence revenues, and opportunities for commercial arrangements. Member States should view the subsidies as an impediment to national development.

Access payments made by the DWFN should reflect at least the full social and environmental costs of its sustainable fishing operations. The interests of small-scale, or artisanal fishers of the Member States should be protected by prohibiting foreign fishing within the territorial seas (archipelagic sea).

4.1.3. Technical principles

The foreign fishing vessels must comply with the laws of the Member State(s) and any harmonised sub-regional measures.

The DWFN must take measures to ensure that its flag vessels comply with coastal state fishing laws and regulations.

The DWFN must cooperate fully with the Member State(s) to ensure effective monitoring, control and surveillance of fishing activities.

Member States and DWFN should make the terms of the access agreement, any legal processes, and aggregate data on fishing activity publicly available, while retaining the confidentiality of information of commercial value.

4.2. IDENTIFICATION OF THE FLEETS

Such an agreement requires the Member States to agree on the definition and role and rights of several types of vessels fishing these stocks. Any sub-regional fisheries access agreement should focus on industrial vessels as may be defined in the sub-region, i.e., exclude non-industrial vessels. The term fishing vessel should be defined to include all vessels associated with a fishery specifically including refrigerated transport vessels and supply vessels. The following types, or gradation of vessels can be distinguished:

- Distant water fishing vessels (DWFVs), or foreign-flag vessels based outside of the sub-region,
- Foreign flag vessels based permanently in the sub-region (based vessels),

- Foreign flag vessels chartered by sub-regional operators (chartered vessels),
- Sub-Regional flag vessels operating in the waters of more than one Member State (Sub-Regional vessels, or SRVs);

This classification is directly linked to the nature of the economic benefits derived by the Sub-Region. Estimates of the numbers of foreign vessels are provided in the Annexes.

4.2.1. Distant water fishing vessels (DWFV), chartered vessels and 'based' vessels

The DWFVs are the primary target of the sub-regional framework agreement and this working paper. However the common access regime requires the Member States to consider the role of the other types of vessels, to which substantially the same technical conditions of fishing should apply.

The chartered and based vessels are an intermediary stage in the transfer of capital, technology and financial support to the Member States. Substantial and sustainable economic benefits can accrue from these arrangements, particularly from landings, crewing, supplies to processors, port dues, exports, and other tariffs and taxes. However the vessels may not be covered by access agreements and as part of the framework agreement, Member States may agree upon the definitions of chartered and based vessels. Most of the minimum terms and conditions of access should also apply to such vessels.

4.2.2. Sub regional international vessels

Sub-Regional flag vessels operating in the waters of more than one Member State (Sub-Regional vessels, or SRVs) may be given some preferential treatment as regards access to the fish resources of the other Member States. However, it is strongly recommended that any preferential treatment does not involve reduced access fees.

The legislation defining a national vessel generally²² rests on the '51% rule', i.e., vessels, or vessel-owning companies must be 51%-owned by national citizens. However, in practice this rule can be difficult to apply and additional criteria with regard to crewing, landings, and responsible practices may be necessary for application of preferential treatment.

4.3. IDENTIFICATION OF THE FISHERIES

Existing access agreements target five groups of species. These are:

- demersal finfish,
- crustaceans, and
- cephalopods;
- small pelagics; and
- tuna and other highly migratory species (HMS).

Some of the major historical trends in catches, catch composition, fleet operations, landings and value of landings are provided in the Annex. Further study is required to obtain satisfactory estimates of the catch and catch value for the Sub-Region as the relevant information has not been made available by all Member States at the time of writing..

4.3.1. Demersal resources

The first three groups (demersal finfish, crustacea, and cephalopods) are almost always harvested by demersal trawlers²³ operating on the continental shelves of the sub-region and form the highest value component of the sub-region's access agreements. The demersal resources are heavily exploited in all Member States. Some resources are overexploited and there is considerable conflict between the foreign fleets and national fishermen. The extent to which the Member States' stocks of demersal species are transboundary in nature is unclear. The management of these demersal resources is

²² In Gambia it is 100% and the situation in G. Bissau is unclear.

²³ Crabs are fished using pots and there is limited demersal long-lining and gill-netting.

essentially national, or bilateral (between two Member States), rather than sub-regional in character. The bilateral fisheries conventions signed between Member States contain general provisions for the management of such stocks.

Three main groups of foreign vessels exploit these resources: the EU fleet, the Asian fleet (Chinese and Korean, often operating under charter, or agency agreements), and the sub-regional fleet.

4.3.2. Tuna and HMS

A clear definition of 'highly migratory species' (HMS) is given in Annex I of the Law of the Sea Convention (copy listing the species is provided in the Annex), which requires that HMS be managed²⁴ through an 'appropriate international organisation'. The International Commission for the Conservation of Atlantic Tunas (ICCAT) is the appropriate international body in this case as its mandate covers the entire range of the concerned species. Some of the SRFC Member States are not members of ICCAT partly due to the costs of participation.

The three principal species exploited by industrial vessels in the sub-region are skipjack, yellowfin and bigeye all of which are heavily exploited.

The tuna fishery is considered to be the most suitable a sub-regional centralised licensing system, i.e., a single licence issued for access to the collective EEZs of the Member States. This concept is discussed in more detail below.

4.3.3. Small pelagics

Many of the small pelagic species²⁵ and stocks exploited by the foreign fleets are also exploited by artisanal fisheries. The artisanal catches are an important component of the sub-regional food supply, while the foreign catch is also an important component of the food supply in other African countries²⁶. The resources are heavily exploited in the inshore areas and certain species may be subject to local overexploitation. Some small pelagic stocks may be considered straddling (i.e., they range outside the Member State EEZs). However the main concentrations lie well inside the 200-mile limits and are more coastal than oceanic in distribution.

The stocks targeted by the industrial fleet show considerable fluctuations due to environmental factors. The industrial catch of small pelagics is almost exclusively harvested by the foreign fleets, some of which fish seasonally in waters outside the sub-region. Market prices can also fluctuate considerably making the industrial fishery for small pelagics a high capital, high risk, seasonal, and often marginally profitable investment. The Member States possess neither the vessels, technology, shore support, or market access to effectively exploit this resource at the present time. However the small pelagics are a vital component of the food supply in many Member States and as such have a high social value.

For these reasons the foreign industrial fishery for small pelagics could be considered as a possibility for a centralised, or joint sub-regional licensing system, i.e., a single licence issued for access to the collective EEZs of the Member States.

²⁴ Article 64. " ... States shall ... cooperate through appropriate international organisations ..."

²⁵ See Annex for list of species.

²⁶ In particular in Nigeria, Ghana, Cote D'Ivoire, Cameroon other Gulf of Guinea countries.

4.4. THE MINIMUM TERMS AND CONDITIONS OF ACCESS

Harmonised minimum terms and conditions of access (the Conditions) for foreign vessels to fish resources of the Member States should:

- be agreed by the Member States, and be formulated as a protocol to the SRFC Convention. The protocol must be binding so that a Member State shall only licence a foreign vessel subject to the minimum terms and conditions.
- the Conditions should then be formally agreed with the DWFN(s) through a specific protocol forming an integral part of a framework agreement, and
- be applied to all foreign vessels even in the absence of a formal agreement with their flag state.

This section proposes key elements of the harmonised minimum terms and conditions of access. The outline draws on several sources which readers should consult in more detail. These are:

- The Code of Conduct for Responsible Fisheries and its associated Technical Guidelines, in particular 1. Fishing Operations, 4. Fisheries Management, and 1. Supp. 1. Vessel Monitoring Systems,
- The Compliance Agreement,
- The Straddling Stocks Agreement, and
- the Nauru Agreement and associated arrangements²⁷ which are an example of 'best international practice' from the South Pacific.

Appropriate interpretations should be agreed by the Member States regarding how the Conditions are applied to chartered and based vessels and any additional conditions which may be required for vessels flying flags of convenience. The preparation of the Conditions will require intensive work by several expert groups.

4.4.1. A regional register of foreign fishing vessels

During the preparation of this working paper an effort has been made to compile a complete list of all industrial vessels operating in the sub-region. This list is based on the separate lists²⁸ of vessels licensed in each Member State since 1996. A definitive list is not possible without considerable verification due to a range of data problems, e.g., the spelling of vessel names in the different countries, differences in GRT, horsepower, radio call signs, flag state, etc., between apparently identical vessels. Summary tables based on this exercise are presented in the Annex. With the help of a competent data management expert, the Banjul surveillance unit should compile such a definitive list without delay.

There is however a major difference between a regional register of foreign vessels and a list, or database. The Register can have three functions as:

- a means of control,
- a source of information, and
- a means of generating revenue for the SRFC

To be functional, the register must be a legal instrument established by the Member States, such that no foreign flag vessel is issued a fishing licence unless it is on the SRFC Sub-Regional Register (the Vessel Register).

²⁷ In particular 'An Arrangement Implementing the Nauru Agreement setting forth Minimum Terms and Conditions of Access to the Fisheries Zones of the Parties (Apia, 5 May 1993).

²⁸ Obtained from the Banjul-based SRFC fisheries surveillance unit and other sources.

Box 3.**Guidelines for the establishment of the Sub-Regional register of vessels and infractions.**

1. The objectives of the register will be to serve as:
 - a) an instrument of control of fishing activities,
 - b) a database of verified information on vessels and infractions, and
 - c) a means of generating revenue for the SRFC.
2. Eligible vessels are:
 - a) all industrial fishing vessels, all refrigerated carrier (reefer) vessels involved in transshipment activities, and vessels supplying fuel, fishing gear, crews, or other factors of production to industrial vessels in the Sub-Region.
 - b) vessels flying the flag of non-member States (foreign vessels) and those vessels flying the flag of the Member States and licensed to fish in States other than their flag State (sub-regional vessels).
3. The Register will be administered by the Permanent Secretariat of the SRFC. The SRFC may charge an annual fee for registration and require payments for the reinstatement of 'responsible' status on the register.
4. By default all vessels are considered to have 'responsible' status.
5. No Member State will issue a fishing licence to an 'eligible' vessel unless it has 'responsible' status on the register.
6. Vessel owners, or operators, will register their vessels directly and are obliged to keep register information current (i.e., any substantive changes to be notified on a timely basis).
7. Member States will provide to the SRFC details of all infractions by vessels listed on the register, and by any other vessels which are required to be registered.
8. The register will serve as an official sub-regional record of infractions by vessels, and of owners, masters, and operators whose vessels have been in infraction. Infractions will be classified as:
 - a) un-prosecuted infractions (i.e., recorded but not prosecuted for various reasons);
 - b) prosecuted but not penalised (e.g., lack of evidence); and
 - c) infractions successfully prosecuted (i.e., resulting in a penalty)
6. Vessels, vessel owners, or masters (captains) of vessels with a record of serious infractions may be considered as having lost the status of 'responsible' and such vessels, and/or their owners, operators, or masters will be deemed to be 'delinquent'. Specific criteria for determining the loss of 'responsible' status will be determined by the Council of Ministers on recommendation of the SRFC Coordinating Committee.
7. The member States will introduce into their national fisheries legislation provisions which will give effect to the following action: vessels listed in Article 4.3 above, and/ or their owners, or masters will be granted a permit, or license to fish only if considered to have 'responsible' status on the sub-regional register; and
8. The vessels will be obliged to register directly to the SRFC to which initial and annual registration fees will be paid directly. Fees may be related to the characteristics of the vessel, including size, horsepower, and hold capacity, and type of fishing activity. If a vessel loses 'responsible' status on the register further payment of a 'responsibility fee' will be required to restore the 'responsible' status.
9. The existing lists of vessels and infractions compiled at the SRFC Surveillance Unit, Banjul may be used in compiling the register. Member States will take measures to ensure that the national authorities which maintain the national registers of shipping, of fishing vessels and of fishing licenses, or permits will cooperate fully in the establishment of the register and in the validation of information on the characteristics of vessels.
10. The Permanent Secretariat should take measures to support the creation and operation of the register by:
 - a) assisting member States to adapt their legislation to the requirements of the register;
 - b) facilitating physical validation of the information contained in the register; and
 - c) facilitating verification of the details of ownership and command of the vessel.
12. The information contained in the regional register of vessels and infractions will be publicly available.

Information provided by vessel owners/ operators for the Register must be physically verified periodically by competent²⁹ personnel. Vessels must submit original survey, safety and insurance certificates. An independent vessel survey may be required to verify tonnage and horsepower.

4.4.2. Authorisation and licensing

All foreign fishing vessels and fishery support vessels will operate subject to a valid fishing licence issued by one (or more) of the Member States. As noted above a Member State will only issue a license to a 'responsible' vessel on the Sub-Regional Register.

The licence will be issued on a common, or standardised licence form as agreed by the Member States (see Annex for example). The licence will issued to a person with respect to a specific fishing vessel,

²⁹ E.g., Bureau Veritas, Lloyds Agent, qualified fisheries inspectors.

and specify the target species, authorised fishing method(s), and areas for which fishing is authorised/prohibited.

Payment, or guarantee of payment, of licence fees and any other agreed compensation shall be required prior to issue of fishing licence(s). There shall be no refund of licence fees, or other payments. There shall be no transfer of licences.

The Member States may consider means of 'fixing' vessels to an area, or fishery, so that the operator of the foreign fishing vessel will have a vested interest in the long-term health of the fish stocks. This may help avoid serial depletion of the resources. One such measure is to place a premium on short-term (e.g., 3-month) licences and to agree on a minimum period of not less than 3 months for foreign licences.

4.4.3. Flag state responsibility

The flag state³⁰ responsibilities are listed in the Code of Conduct (Article 8.2), and in more detail in the Technical Guidelines - fishing Operations (Section 3); in Article 94 of the Law of the Sea Convention; and in the Compliance Agreement. Based on these comprehensive texts appropriate clauses can be included in the Conditions.

Ideally the Conditions should require that the flag state ratify and apply the Compliance Agreement. However, as there are numerous vessels bearing flags of convenience³¹ in the Sub-Region, such a provision could be gradually introduced. As a general provision, the flag state should also give effect to Straddling Stocks Agreement.

The flag state should be obliged to issue an authorisation for its flag vessels to fish in Sub-Regional waters. One of the terms of the authorisation should be that infringements of these Conditions be considered an infringement of the flag state authorisation, enabling the flag state to take appropriate disciplinary action under its own laws when a SRFC Member State reports a violation. The flag state should also ensure that the vessel carries adequate insurance.

In the absence of a framework agreement with the flag state, then arrangements for the payment of bonds and nomination of reputable agents must be made. Licence fees may also be increased for such vessels. Alternatively these vessels should only be authorised to fish under charter, or similar arrangements.

4.4.4. Fishing zones

No foreign fishing shall be permitted within the territorial³², or archipelagic seas. The Member States may wish to exempt vessels from other Member States.

Other zones may also be specified, e.g., the G. Bissau/ Senegal shared zone may be subject to special provisions. Guinea allows no industrial fishing for small pelagics within a 50-mile zone. A listing of all marine protected areas, zones in which fishing is prohibited, or limited should be included in the Conditions.

4.4.5. Information and reporting

Vessels. Information on vessel and gear characteristics will be contained in the Sub-Regional register.

³⁰ Similar provisions should apply to any representative fishing association with which an access agreement is concluded.

³¹ E.g., Panama, Belize. A number of vessels also bear the Sierra Leone flag and such countries where there is civil strife are in no position to implement the Compliance Agreement.

³² Note that this has been also been proposed by the European Parliament Fisheries Committee.

Position. Entry to and exit from of the 200-mile zones must be reported with a declaration of the quantity/type of fish on board. Regular position reports must be made, again declaring the quantity/type of fish on board.

Production. A clear distinction must be made between catch and production. The production is the quantity of fish retained on board and may be in processed form, e.g., gutted, fillet, headless, or even fish meal. Production information is important for the purposes of control and minimum requirements for each type of vessel/ fishery will be determined by an appropriate Sub-Regional technical group. Summary production information should be transmitted during the course of a voyage and should constitute a legal declaration. Under-reporting³³ should be considered a violation.

Scientific information and logbooks. As detailed catch and effort information may be of considerable value for fisheries management, the Conditions will oblige the vessel operator to comply with any requirements for the collection of scientific information.

Vessels will use a common catch logbook(s) approved for each fishery by a technical working group working under SRFC mandate. ICCAT logsheets will be used for tuna and HMS. The master of the vessel shall ensure that the production logbook and catch and effort logbooks are kept current at all times; shall produce them on demand to authorised officers. In practice:

- Logbooks should be sequentially numbered and issued to the vessel operators in respect of a specific vessel and fishing licence;
- The vessel skipper should have legal responsibility for completing the logbook on a daily basis in a specified language;
- The observer should have access to the logbook in order to verify logbook entries;
- New logbooks should be started after each transshipment/ unloading to facilitate cross-checking,
- the Sub-region should have the right to obtain a copy of the full trip logbook, particularly for tuna vessels,
- the vessel operator has the obligation of transmitting the logbook to the specified institution³⁴ no later than 7 days after completion of the trip;

Means of reporting. Ownership of information, data capture, compilation and analysis of Sub-regional information are all matters which will need intensive discussion among Member States. The required means of reporting, frequency of reporting, and use of new technologies (e.g., electronic logbooks) will have to be studied in some detail by Member state technical experts. The framework agreement may guarantee the confidentiality of certain information.

4.4.6. Vessel monitoring systems (VMS)

It is recommended that satellite tracking devices be mandatory for all foreign fishing vessels in the Sub-Region, and that appropriate provision is made in the Conditions. Lack of Sub-Regional capability to capture and effectively use the satellite information at the present time is not a valid reason for excluding the right to this information from the Conditions.

Satellite tracking technology is essential in the long-term for effective control of the industrial fleets in the region. Other technologies (e.g., HF radio transponders) while cost effective are likely to be superseded in due course by the satellite technology. Many vessels already have such technology (e.g., EU and Japanese fleets) and no capital investment is required for these vessels.

The coordination, interpretation and use of the satellite information requires considerable additional study as there are numerous technical, legal, and practical administrative issues involved. In preparing such a study reference can be made to two useful sources³⁵: The FAO Technical Guidelines 1, Supp. 1.

³³ I.e., it is a violation to have more fish on board than declared.

³⁴ A sub-regional institution may be specified in certain cases. The term trip may need to be defined.

³⁵ Both available on the relevant web sites.

Vessel Monitoring Systems; and the South Pacific Forum Fisheries Agency, Vessel Monitoring System Guidelines for Installation and Registration of Automatic Location Communicators, First Edition 1998 (Ver A1.8, 18 February 2000). The manner in which the FFA VMS system is being established is of particular interest when considering sub-regional coordination of VMS.

Once a provision is made in the Conditions it can be applied when the Sub-Region has the technical capability. At least three types of information can be obtained on a real-time basis: vessel position reports, in particular the entry and exit from the fishery zones; vessel activity reports; and catch/production reports. As 'real-time' catch information can of considerable commercial value, appropriate measures to ensure confidentiality will be required. A priority listing of target fleets and vessels can be established by the SRFC, e.g.:

- delinquent vessels, i.e., those with a history of violations,
- reefer and supply vessels,
- vessels with flags of convenience, or operating without framework agreements, and
- tuna vessels.

As it may take some time for a sub-regional VMS capability to be acquired, an (interim) provision can be included in the Conditions requiring flag states to provide authorised sub-regional officers with real-time access³⁶ to VMS data from their flag vessels licensed to fish in the Sub-Region.

4.4.7. Technical measures

The technical measures are fishery specific. The only existing Sub-Regional technical measures are the minimum mesh sizes agreed for trawls. These mesh sizes are already applied in Member State regulations.

Fish and cephalopods	70 mm	
Shrimp trawl	50 mm coastal	40 mm deepwater
Pelagic trawl	40 mm	

Source: Annex II of the SRFC Convention on Access

In order to reduce, or avoid by-catch³⁷ foreign vessels shall use the best available technology. The SRFC can request technical experts from the Sub-Region to list minimum requirements³⁸. These may include turtle excluder devices, square-mesh panels, pingers, or other feasible devices, or measures. Practices such as shark-finning may be prohibited. The criteria used to select these minimum requirements should consider, not only the technical and economic feasibility of the devices, but also practical means to enforce such minimum technical measures, i.e., it is of little use to have an unenforceable measure.

Namibia³⁹ enforces a 'no discards' policy by having two observers on board the larger industrial vessels. This may not be practical in fisheries with a high ratio of unwanted by-catch (e.g., shallow-water shrimp). However a 'no discards' principle may be a useful long-term policy objective.

Tuna. The Conditions should refer to measures to implement the ICCAT recommendations for tuna species. Voluntary restraints by certain fleets (e.g., no fishing on logs) should be extended to other fleets targeting the resource. Additional measures can be considered in the event that ICCAT measures are considered insufficient.

³⁶ This will require electronic protocols to be concluded, e.g., allowing a PSPS officer to log into the French VMS system to download data on the French vessels operating in Senegalese waters.

³⁷ Note that full social account of by-catch should be included in the estimates of the cost of foreign fishing. This requires estimates of the quantities and mortality of juveniles of species targeted by the artisanal fishermen.

³⁸ Due note should also be taken of the International Plan of Action for Reducing Incidental Catch of Seabirds in Longline Fisheries, and the International Plan of Action for Management of Sharks.

³⁹ Norway also has such a policy.

Small pelagics. A CEECAF specialist group is currently reviewing the small pelagic stocks in the region and may suggest certain technical measures. Member States can take note of the management measures in force in Morocco and Norway. Of particular interest in the longer term is the Norwegian use of sales organisations combined with strict fishery control to avoid catches of juveniles. New EU investment in pelagic fishing capacity is likely to impact on Sub-Regional stocks. These vessels may be several times more efficient than the 'traditional' eastern European fleet, are more cost effective and have a more integrated market access.

4.4.8. Transshipment and supply operations

Refrigerated carriers and supply⁴⁰ vessels are crucial to the operation of the DWFV in the Sub-Region, largely because of a lack of shore facilities. While the presence of these vessels undermines efforts to establish shore facilities, it is not realistic to curtail their operations in the near future. However, a far greater control of their activities is required. The following points should be included in the Conditions:

- all transshipment and fleet support vessels (ancillary vessels) must be registered on the Sub-Regional vessel register even if flying the flag of a Member State,
- all ancillary vessels must be licensed under the fisheries laws of the Member States (a joint licence may be arranged for vessels operating in several Member States),
- while authorised to operate in Sub-Regional waters no transshipment is permitted on the high seas (i.e., even with other non SRFC-licensed vessels outside of SRFC waters).
- ancillary vessels are obliged to carry observers on board,
- ancillary vessels are authorised to transfer cargo (including fuel) only at designated transshipment points within territorial waters,
- in principle, all transshipment operations should come under customs control (unless specifically exempted),
- quantities and estimated values of all fish and supplies transferred and its estimated value must be recorded by Member State officers on board the ancillary vessel,
- a full record/ logbook (bills of lading/ discharge) of the transshipment operations must be maintained and submitted to the appropriate authority(ies),
- Member States may levy charges for transshipments to cover the monitoring costs and potential losses of revenue and benefits to the Member State.

Some of these vessels are a key component of the illegal fishing operations in the region and no efforts should be spared to impose effective controls. The designated transshipment points may be ports, or to avoid paying port dues, other suitable locations may be designated.

4.4.9. Compliance

Vessel operators must comply with the fisheries and other relevant legislation of the Member State(s). No firearms (guns) are permitted on board fishing vessels.

Authorised officers/personnel. Vessel operators must facilitate the activities of authorised officers and shall not intimidate, interfere with, or impede their work in any way. It is strongly urged that a regional operations manual be prepared for dealing with boardings, vessel inspections, detentions, retention of evidence, issue of warnings and cautions and a range of control functions. This manual, or a summary version could be held on board foreign vessels so that the vessel operator will have full knowledge of the procedures and obligations involved.

Observers. Sub-Regional observers can be a valuable addition to fishery control and research. The precise role of observers, their level of training and skills should be agreed by the Member States⁴¹. It is strongly recommended that observers do not have enforcement powers, but simply record the

⁴⁰ Usually supplying fuel, fishing gear, packaging and food.

⁴¹ For background information see: FAO, 1995. Technical consultation on fisheries observers in West Africa. GCP/RAF/302/EEC. Doc. No. 34.

fishing and related activities. The obligations of the vessel operator / captain towards the observer (including access to communications equipment, to records, to adequate food and accommodation at officer level) must be detailed in the Conditions. Observers may undertake the collection of scientific information. Foreign vessels should be charged the full cost of operating an observer scheme including insurance and transport to and from the point of boarding/ discharge. A team of Sub-Regional fisheries observers may be created, in particular for placement on tuna and reefer vessels. These would be a pool of selected national observers trained to a higher level.

Vessel identification. Vessel and fishing gear marking and identification will be carried out in accordance with the specifications set out in the FAO Technical Guidelines 1. Fishing Operations, Annexes II & III.

Radio communication. Vessel operators must be obliged to monitor designated radio frequencies both for international distress and to ensure communication with the fisheries authorities.

Bonds. In the absence of a framework agreement the owner/operator of the vessel must deposit a bond with the Member State (or the SRFC for vessels operating in several Member States). A SRFC technical group can prepare guidelines for bonding process (value, form, procedures for forfeit and cancellation, a mechanism for operating a single Sub-Regional bond for all six Member States). These procedures can be harmonised throughout the Sub-Region.

Agents. The flag state/ fishing association/ vessel owner/operator must appoint an agent, resident in the Member State(s) with powers to respond to legal process. The agent and charterer may be one and the same. The agent must be a responsible corporate citizen⁴². These procedures can be harmonised throughout the Sub-Region, though because of the nature of the legal processes involved, this may not be possible.

Abuse of powers. Instances of abuses of power by fisheries inspectors, customs officials and other authorised officers are frequently reported. A framework agreement should provide a procedure whereby both Member state and flag state can cooperate to eliminate such malpractice, and associated bribery by vessel operators.

An article may be included in the Conditions to oblige flag states to assist in surveillance operations, e.g., 'in close consultation with Member State(s), and subject to a formal request by Member State(s), flag states make best efforts to use their visiting warships for Sub-Regional fishery control.'

4.5. VALUE OF ACCESS AND PAYMENT FOR ACCESS

4.5.1. Value of access

The Member States want to derive maximum social benefit from their resources. The foreign vessel should pay the 'full social value' of the access plus a premium to the Member State.

The value of access to the fish resources for the foreign vessel operator varies as a function of a large number of biological and economic factors. These factors include:

- the state of the fish stocks, including the fish sizes, fish concentrations, and catch per unit effort,
- the cost of catching (e.g., rising fuel prices are making some fisheries uneconomical at present),
- market conditions and availability of access to other fish resources,
- the fishing grounds open to the foreign fleet (e.g., more productive inshore grounds may be excluded),
- logistics (e.g., distance from fuel supplies and support services)
- competition from other fleets, availability of alternative fishing grounds,
- conditions of access, e.g., landing obligations, and

⁴² i.e., no record of illegal activity, ability to provide evidence that taxes have been paid.

- the willingness of the flag states to subsidise some fisheries access agreements, or distant water vessel operations⁴³.

The 'full social value' of access reflects both the sales value of the fish harvested by the foreign vessel and the negative impacts of its fishing activity on the Member State's fish resources, marine ecosystem, fishermen, food supply, and economy.

Given the lack of information on the economic impact of the access agreements, this working paper makes no attempt to assess the 'full social value', which requires a separate study. Calculating the value of the access as a percentage of the estimated market value of the fish caught does not necessarily reflect this full social value, nor the economic state of the fishery. The following indicators should be used merely for comparative purposes.

Worldwide, total access payments range from >2% to <35% of the estimated value of the catch. Accurate estimates clearly depend on Member State's knowledge of the catch and market prices, both of which can be difficult to obtain. Based on a recent study, for access to the Sub-Region in the 1993-97 period, the EU paid an estimated⁴⁴ 35% of the catch value, or 6% of the reported catch value plus estimated value added (see Annex).

In summary, the value of access is not simply a function of the market value of the fish caught by the DWFN. It is suggested that a minimum access payment should include the following components:

1. Be not less than 5% of the estimated value of the catch. This reflects a simple 'sale of fish' to the DWFN. The catch estimate should include the by-catch which -
 - may have considerable value on Member State markets, or
 - impact on the state of other non-target resources;
2. A component reflecting the cost of managing and controlling the fishery;
3. A component reflecting the value added to the economy of the DWFN as a result of the fishing operations; and
4. Include a component compensating the Member State's fisheries sector for the loss of economic opportunities and negative ecological impacts.

4.5.2. Payment systems

All payments should be made in advance of the issue of the fishing licence. There are numerous payment methods, some⁴⁵ of which are described here.

1. Lump-sum fee. Simple and easy to apply, the lump-sum is often based on an agreed percentage of an agreed estimate of the potential catch and catch value. It has the advantage of not requiring close monitoring of the catches.
2. Non-refundable up-front fee plus top-up. This is a combination fee giving a lump-sum at the start of the agreement and a bonus, or extra payment later. The extra payment is linked to the catches, or catch values. If the catch at the end of the agreement period is higher than the catch used to calculate the up-front fee, the DWFN/ fishing association pays the difference or the balance to the Member State. If the reconciled catch is lower, there will be no additional payment and no refunds.
3. Trip fee. Favoured by fleets which only fish seasonally in the waters of the coastal state. Two-month, or three-month licences may be considered as trip-fees as often only one trip is made during the licence period. The disadvantage is that the fleet has little permanency in the waters of the coastal state. The vessel may be charged a fee each time it enters the EEZ. The FFA generally uses a three

⁴³ Examples of subsidised access are the current EU agreements and the former Soviet and eastern European fleet operations.

⁴⁴ Some additional work would be of benefit in order to verify these initial estimates.

⁴⁵ Notes courtesy of FFA.

year average catch per vessel per trip and the preceding quarter's average price of tuna to calculate the fee.

4. Fishing fee plus value of the fish. Similar to no. 2, above the fishing fees is non-refundable. At the end of each trip, a second payment, being an agreed percentage of the landed value of the catch, would be paid to the Member state. Again, this requires close monitoring of the catches and market prices.

5. Tied compensation. Access fees may be used only for a specific purpose, such as fisheries research, training, or development of the fishery control capability. The nature and desirability of this form of compensation may be the subject of a joint policy.

Further discussions will be needed in order to establish a Sub-Regional position on the methods of payment of access fees. Different methods may be appropriate to different fleets.

4.5.3. Other socio-economic conditions

A fundamental condition of all framework agreements should be an obligation on the DWFN to directly contribute to the long-term development of the fisheries of the Member State(s) through its fishing operations. A number of specific obligations must be included in the framework agreement(s).

Crewing and human resources development. A small study should be made of the conditions of crews, who are citizens of Member States, on board foreign vessels. Based on such a study a set of recommendations can be prepared. Certain recommendations can be adopted as Conditions, while others would remain as guidelines for DWFN and the Member States. The recommendations will address:

- salary levels in relation to IMO qualifications and experience,
- insurance and medical conditions,
- seamen's logbooks,
- ratios of foreign to national crews for different types of vessels and skills,
- training plans, and
- food, accommodation, working hours and leave.

Landings and port services. Landings and the use of the Sub-region's ports are the key to adding value to the fisheries resources. The basic principle to be inserted in the framework agreement is that the DWFN should be committed to increasing the proportion of the catch landed in the Member States. Clearly this is dependent on commercial and other conditions in the Member States. Problems of security on ports, theft from vessels, and demands by the various authorities soliciting gratuitous payments for a wide range of 'services' are major reasons for not landing fish in the Sub-Region. Banking and foreign exchange problems will also have to be addressed.

Commercial relationships. The framework agreement will contain provisions for the promotion of trade and investment. An approved foreign investment code for the fisheries sector is required in each Member State to promote commercial relationships. The code should be a written document accompanied by a transparent and timely process of approval.

4.6. INTERNAL SUB-REGIONAL ARRANGEMENTS

There are a number of important issues which require internal arrangements between the Member States. These include:

- priority access,
- fleets and definitions,
- co-operation in multilateral fisheries fora (e.g., ICCAT, FAO Council, Lomé),
- co-operation in respect of access to the 200 mile zones of other states.

4.6.1. Priority access

Member State should establish principles for granting priority access to fishing vessels of the Member States over other foreign vessels. At the very least the principle of the 'level playing field' should apply and no less favourable conditions extended to sub-regional vessels as granted to foreign flag vessels. The Conditions should be equally applied to Member State vessels. It is not recommended that there be more favourable licence fees for Member State vessels. The priority access should be linked to building and consolidating commercial linkages through charters, joint ventures, landings and processing. To this end, additional discussions can be initiated on co-operation on onshore fish processing, on marketing, and promotion of joint ventures and trade.

Priority access implies scarcity of resources. In general the fish resources of the Sub-Region are becoming depleted as human populations and prices rise, and as fishing technology improves. Limits on fleet capacity and catches are likely to be progressively introduced to all the fisheries.

With respect to the transboundary stocks the Member States will need to initiate a discussion on reference points, or indicators of the state of stocks at which effort must be restricted, specifically the limits to the numbers/ effort of foreign vessels. These precautionary devices should be put in place as soon as possible, even if only principles are agreed.

4.6.2. Compliance control

The reefer and supply vessels servicing the fleets and engaged in transshipment, offshore bunkering and supply are suggested as a key target group for Sub-Regional control activities. A clear understanding of the operations of these vessels is crucial to the planning and efficient operation of fisheries control in the sub-region.

The Member States can consider the establishment of a Sub-Regional corps of observers with common tasks, qualifications, and conditions of service. These observers would primarily target vessels licensed to fish in several Member States, and particularly reefer and supply vessels.

The Sub-Regional protocol on hot pursuit can be re-examined and reinforced in the context of the bilateral hot pursuit agreements concluded.

The Lux surveillance project is not operating as effectively as envisaged. It is essential that additional sea patrols operate in conjunction with the aerial surveillance. The project should also urgently establish a complete list of industrial vessels (including reefer and supply vessels) operating in the Sub-Region. Anomalies regarding flag, call sign, GRT and horsepower should be examined and resolved.

4.6.3. The changing role of the SRFC

Assuming that a common access regime is in force and access fees are paid to the Member States, it is suggested that Member States have an obligation to support the operation of the common regime, both through a commitment to increased payments to the SRFC, and through the use of revenues for collaborative national activities.

The Permanent Secretary of the SRFC should be invited to observe all Member State access negotiations. In this regard, and purely as a tactical measure, the Member States should insist on holding all access negotiations in the Member State, rather than in the flag state. If a breakdown in access negotiations occurs due to the refusal of a DWFN to adopt the Conditions then the agreements concluded by that DWFN with all other Member States can be suspended.

The Permanent Secretariat can also prepare agreed position papers on the Member States' policies with regard to the Lomé process and WTO; and on harmonised approaches to the FAO Council, ICCAT, and other fora.

The SRFC will also have to consider more effective institutional arrangements to coordinate research, information, and biological and economic analysis of the fisheries. It may be desirable to have specialist institutions designated to perform certain tasks on behalf of the Sub-Region, in return for which funds available at the Sub-Regional level would be directed towards agreed programmes of action.

The SRFC programme of action itself requires to be established and approved. The current activities are largely donor-driven, rather than being the outcome of a clear vision of the future shape of the SRFC. Prior to devising schemes for the generation of funds to support sub-regional fisheries programmes a number of other considerations must be addressed.

- the nature and scope of the activities to be undertaken at the sub-regional level, i.e., which activities can be more effectively undertaken by the SRFC on behalf of the member States;
- which activities are required in the long-term, and which should be considered as temporary, project linked activities;
- a recognition of the need to bring all member States to a certain minimum level of fisheries governance;
- the question of equity both in the contributions to sub-regional activities and the benefits derived from these activities.

Based on these and related considerations some estimate can be made of the financial requirements for 'core functions' of the SRFC and more specific 'programme' activities of the SRFC. These determinations will provide a broad estimate of the financial needs at the sub-regional level.

4.6.4. Teamwork

In order to advance the dialogue on a common access the technical resources available in the sub-region may be organised into teams focusing on the following areas:

- coordination, timescales and funding.
- principles of the common regime,
- legal mechanisms and action programme (including the definition of maritime boundaries),
- economic analyses and assessment of costs and benefits,
- fishing operations and control,
- information systems,

The efforts of existing initiatives on the various fish resources and the ecosystem (CECAF, SIAP, Canary Current LME) can also be linked to the process. A review of the progress of the SRFC may be made by compiling the resolutions of the Council of Ministers by policy and theme and identifying the status and progress and proposed actions on each theme.

4.7. STAKEHOLDER VIEWS

4.7.1. The coastal states

There is a basic positive attitude towards the concept in all Member States. The President of the SRFC also considers that expansion to other African coastal states through the Conference of Atlantic Fisheries Ministers may be possible in the longer term. The SRFC views the initiative as central to its action programme.

C. Verde is conscious that its only distant water fishery is tuna and has plans to develop a domestic fishery. Senegal is of the view that the joint approach must be clearly seen to give more benefits to the Member States. However this may be difficult to 'prove'. Local industry in Senegal and Mauritania also have a cautiously positive reaction. Small pelagics are becoming more and more of an essential component of the food supply in Member States and foreign fishing for small pelagics may be progressively reduced in the interests of regional food security and the artisanal sector. Mauritania is acutely conscious that The EU compensation is a vital component of it's national income.

A clearer outline of the proposals are required in order to generate more discussion and debate both within and among Member States. This is the purpose of this working paper.

4.7.2. DWFNs and international agencies

As this is a preliminary analysis and proposal meant only for discussion at the level of the SRFC Member States, no consultations have been held with the representatives of the DWFN. No official reactions are available from ICCAT, FAO, and industry associations.

5. THE INTERNAL ARRANGEMENT FOR A JOINT LICENCE SYSTEM FOR TRANSBOUNDARY FISHERIES

Step II in the creation of a common access regime is the establishment of a joint licence system (JLS) for transboundary fisheries, namely for the tuna and HMS fisheries, and possibly, at a later stage, for the small pelagics fisheries. This discussion focuses on the tuna fisheries.

Step II requires four main elements:

- the framework agreement, which includes the minimum terms and conditions of access and the protocol specifying the financial and other conditions specific to the joint licence system. The framework agreement is a prerequisite to Step II and has already been discussed above.
- the internal arrangement(s) among the Member States enabling the issue of a joint licence and the division of the access fees,
- the administrative contract giving the Permanent Secretariat of the SRFC authority to administer the licensing system, and
- the control and enforcement system.

5.1. OBJECTIVES

The arrangement has four objectives:

- sustainable exploitation and improved management of the tuna stocks for the optimum benefit of the Member States,
- to generate sustainable sub-regional revenue, both for the individual Member States, and to finance Sub-Regional activities,
- to facilitate the operation and free movement of distant water tuna fishing vessels, and
- to achieve more accurate and effective reporting of tuna catches for the purposes of improved management.

5.2. OUTLINE OF SYSTEM OPERATIONS.

The following is suggested as a basis for discussion on the operation of the system.

1. A single sub-regional tuna fishing license will be issued to distant water tuna fishing vessels for the purposes of fishing in the combined fisheries zones of the Member States (excluding territorial waters, special provisions may be made for baitfishing). This will allow the vessels to move freely from one EEZ to another.
2. The SRFC will issue an authorisation to fish on behalf of the member States. The authorisation will be issued only to vessels deemed responsible on the sub-regional register of fishing vessels and named by the flag state party to a framework agreement. The vessels will first be licenced in each Member State in accordance with Member State law.
3. Entry and exit to the zones of the member States will be reported. Catch and effort information will be reported for the full duration of the vessel trip. Information from obligatory vessel monitoring systems will be made available.

4. The SRFC will be appointed the administrator of the arrangement. The SRFC, or its agents will collate and interpret all information and records supplied.
5. Payment of the single fishing fee for the combined zones will be paid to the SRFC, as the administrator of the arrangement. The division of the fees is discussed below.
6. Competent fisheries research institutions in the sub-region will have full access to the catch and effort data for the purposes of improving management of the tuna fisheries.

5.3. DIVIDING THE CAKE

Sharing of revenues generated by a joint licensing system poses a number of problems. The following proposal is offered as a basis for discussion.

An administrative charge levied by the SRFC will be deducted from the total revenue.

In order to ensure that all Member States retain an interest in the system, 10-15% of the remaining net revenue will be distributed equally among all the Member States, or in accordance with a fixed formula.

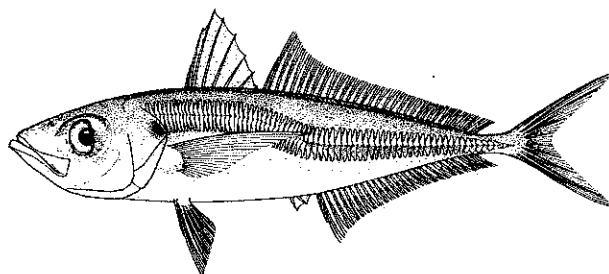
The remaining 85-90% will be distributed among the member States in accordance with the percentage of the reported catches on their respective fisheries zones. The catches will be established through the various radio, VMS, observer and landings reports. ICCAT may be requested to provide catch data on an EEZ basis.

5.4. FUNDS GENERATED BY THE SUB-REGIONAL MEANS

Any system which purports to create sustainable finance for Sub-Regional activities must be equitable in its impact on the member States. This involves consideration of both the payments made and benefits derived. Different contribution keys may be applied for different purposes. Some criteria which can be considered include:

- the area of the EEZs, and continental shelves;
- fish catches or landings;
- fish wealth - the value of landings, or of exports
- numbers of fishermen, fishing vessels, industrial vessels;
- relative importance of fisheries in the economy (% of GNP, or GDP);
- income from the access agreements
- expenditures by regional projects in different States.

The Register is considered to be a useful means of generating Sub-Regional revenue for the SRFC which would administer the Register. An initial and annual registration fees would be paid directly to the SRFC.



COMMISSION SOUS-REGIONALE DES PECHEES

SECRETARIAT PERMANENT

L'ATELIER DE DIALOGUE SUR LES ACCORDS DE PECHE

du 30 octobre au 04 novembre 2000 - Praia (Cap-Vert)

PROJET D'ORDRE DU JOUR

Lundi 30 octobre 2000

Matin

Arrivée
Enregistrement des participants

Après-midi

15 H 30 Ouverture officielle de l'atelier de dialogue sur les accords de pêche
Présentation liminaire de l'atelier

16 H 30 Présentation par la South-Pacific Forum Fisheries Agency (FFA) :

- leur expérience en matière d'accords conjoints (MM. Victorio Uherbelau, Transform Aqorau et Andrew Richards) ;
- leur remarques sur le document de travail initial (de Kelleher).

Mardi 31 octobre 2000

Matin

08 H 00 Présentation par la South-Pacific Forum Fisheries Agency (FFA), (suite)
Discussions

10 H 00 *Pause café*

10 H 15 Présentations par les partenaires

- Points marquant de l'étude d'évaluation des accords avec l'E.U (Catanzano) ;
- La perception des ONGs ;
- L'initiative WWF sur les clauses standards (Lankester/Bonzon).

13 H 00 *Déjeuner*

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Ce texte est fourni tel quel, sans garantie d'aucune sorte exprimée ou tacite. Seul le texte de la Décision de la Commission n°C/99/493 du 4 mars 1999 concernant l'adoption du programme de travail dans le cadre du programme spécifique de recherche, de développement technologique et de démonstration dans le domaine « Qualité de la Vie et gestion des Ressources du Vivant » (1998-2002) fait foi.

Après-midi

- 14 H 30 Discussions
- 16 H 00 *Pause café*
- 16 H 15 Discussion générale (plénière) à partir des commentaires et des communications

mercredi 1^{er} novembre 2000

*Férié / Libre / Excursion / etc.
sauf pour l'équipe de rédaction*

jeudi 02 novembre 2000

Matin

- 08 H 00 Présentation du document de travail (K. Kelleher)
- 09 H 00 Présentation des commentaires des délégations nationales sur le document de travail et discussion (tour de table)
- 10 H 15 *Pause café*
- 10 H 30 Présentation des commentaires des délégations nationales sur le document de travail et discussion (tour de table), (suite)
- 13 H 00 *Déjeuner*

Après-midi

- 14 H 30 Discussions
- 15 H 30 Présentation de synthèse des points émergents des discussions et travaux en groupe de deux ou trois en vue d'approfondir les points jugés prioritaires ou épineux
- 16 H 45 *Pause café*
- 17 H 00 Travaux de groupes

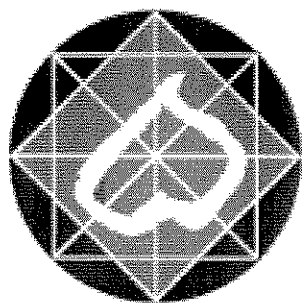
vendredi 03 novembre 2000

Matin

- 08 H 00 Travaux de groupes (suite)
- 10 H 00 Restitution en plénière des résultats des groupes de travail
- 11 H 00 Ebauche de programme d'action et Discussions
- 13 H 00 *Déjeuner*
- 15 H 00 Clôture et fin des travaux

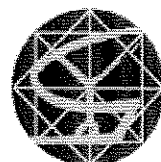
PROGRAMME DE TRAVAIL

QUALITÉ DE LA VIE ET GESTION DES RESSOURCES DU VIVANT



1998-2002

LE CINQUIÈME PROGRAMME CADRE



ANNEXES

These annexes are incomplete but are presented as a guideline for the compilation of additional information important to the process of creating a sub-regional access regime.

LIST OF ANNEXES

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The following procedures apply to the evaluation of such bursaries under all specific programmes of the EC fifth framework programme.

4.1. Evaluation Experts

Bursary applications must be submitted together with a project proposal. The bursary application will then be evaluated simultaneously with the project proposal, by the same experts.

4.2. Eligibility criteria

In order for a bursary application to be eligible, it must satisfy the following requirements :

The Candidate

Must be a national of, and established in one of the eligible regions.
 He/she should not be more than 40 years of age (at the time of application).
 He/she must have a good knowledge of a working language of the host institute.

The Host Institute

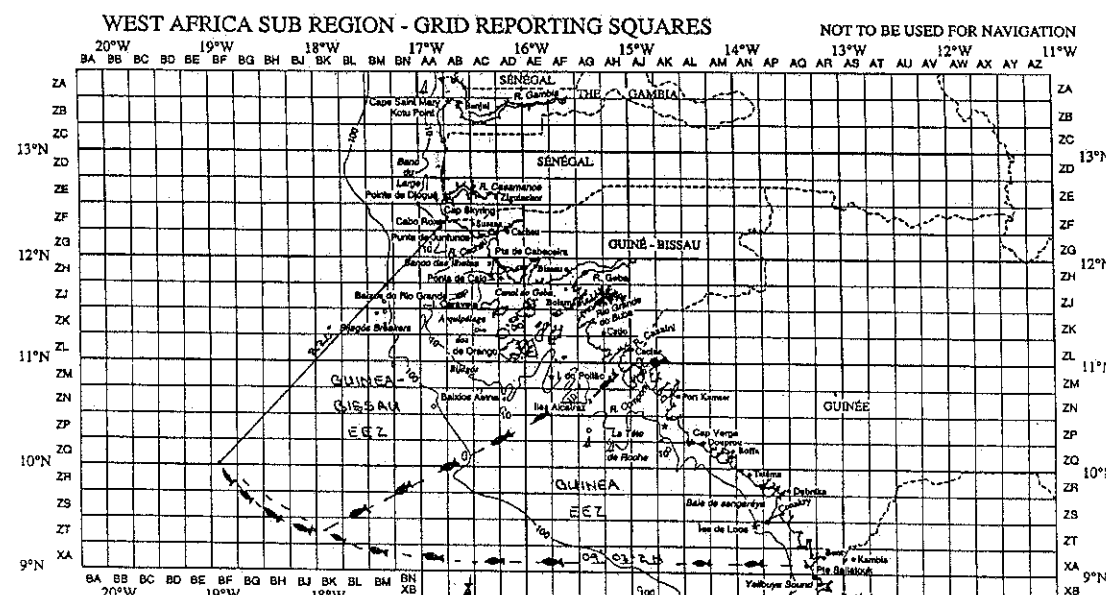
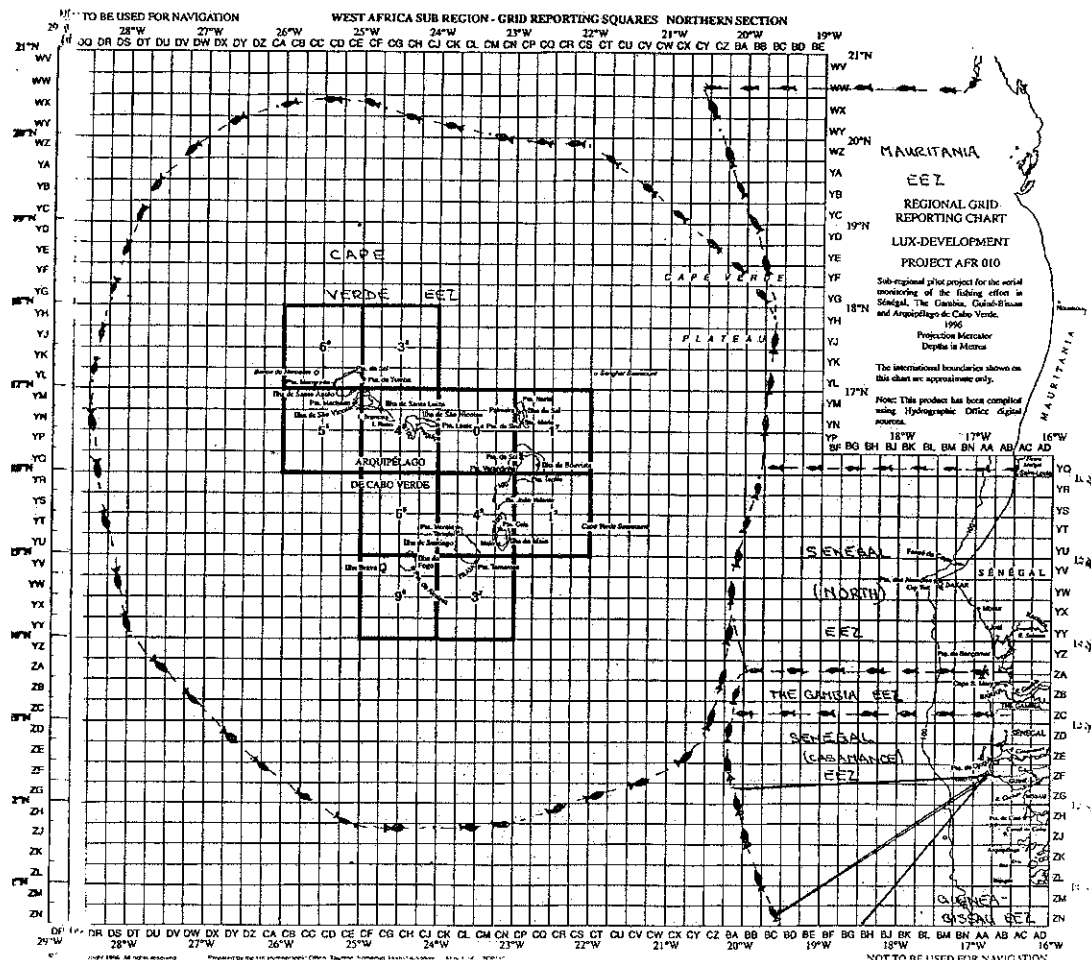
Must be established in an EU Member State or in a State associated to the 5th Framework Programme.
 Must be a member of the consortium proposing the joint research project or concerted action.

4.3. Evaluation Criteria

Eligible bursary applications will be evaluated according to the following criteria :

Criteria	Score range
1. Excellence of the scientific and/or training objectives of the application	0-50
2. Potential value of the bursary to the applicant and to his/her own home institute	0-20
3. Relevance of the proposed bursary to the project as a whole	0-15
4. Experience and professional training of the candidate	0-15

1. MAPS AND NATIONAL INDICATORS



Plymouth is reliant on pelagic species while in contrast, Brixham is reliant on shellfish. Presently a large portion of landings into Newlyn are exported to the continent however it is suggested that with the growing domestic demand for high quality fish²⁵ (hake, megrim, lemon sole) increasingly larger portions of fish sales will be for domestic outlets (Fishing News. 1999).

Table 3.2.11 Characteristics of fishing in Newlyn and Brixham 1992 and 1997

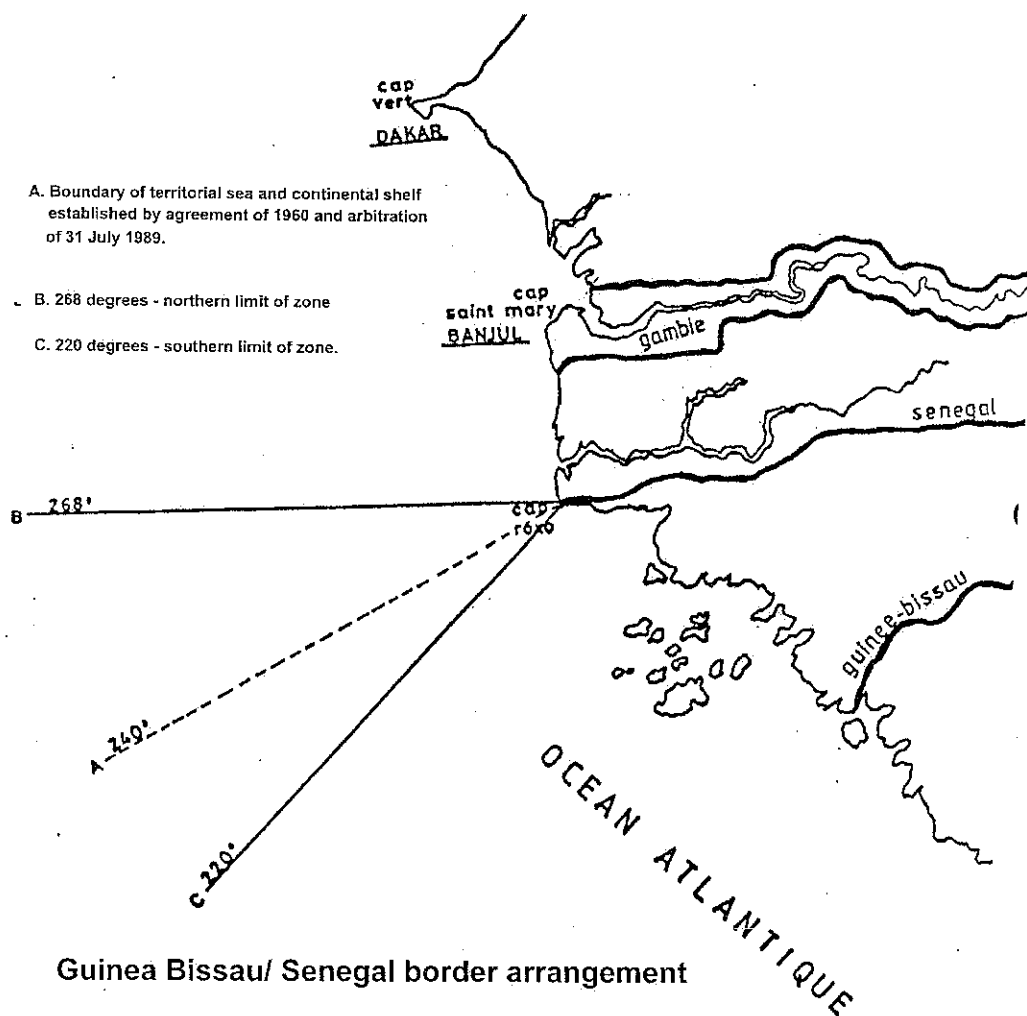
		1991	1997		
		Number	Number	Regd. Tonnage	kw
Newlyn:	<10m	Not known	Not known	Not known	Not known
	10-18.29m	154	85	1,852	13,252
	18.30-36.58m	62	62	6,969	27,989
	Over 36.68	9	9	2,728	8,981
Brixham:	<10m	Not known	Not known	Not known	Not known
	10-18.29m	77	44	993	6,494
	18.30-36.58m	44	38	4,525	17,728
	Over 36.68	2	-	-	-

Source. MAFF Sea Fisheries Statistics 1991-1998.

Specific figures indicating the size of the under 10m fleet were not available however recent findings suggest that 86% of the total vessels in Cornwall are below 12m (Bennett and Black. 1997). Due to a much diminished number of boats between 10-18.29m, the total number of vessels in Newlyn have decreased by 44.8% from 154 – 85 over the period 1991 to 1997 (Table 3.2.11). Further, over the period 1994-1998 35 vessels have been decommissioned in Newlyn (Derriman.1999), 40% of which were lost by the netting fleet (Fishing News. 1999). Whilst Brixham has experienced declines in vessel numbers in all size categories, the largest number have also withdrawn from the 10-18.29m class. In 1995 a regular fleet of 63 trawlers and 52 static gear boats and a further 20 part-time vessels landed into Newlyn (Gray. 1995).

Of the over 10m vessels in Newlyn just over 1% have been built between the period of 1993-97, with no new vessels entering the fleet after 1995. This contrasts to the period 1966-1992 where on average 19% of the fleet was built in each five year period (Figure 3.2.3). Indeed with the withdrawal of future grant aid and in the light of the new decommissioning talks, no new builds would appear to be planned for the foreseeable future.

²⁵ In terms of degree of freshness: Landed by vessels who spend short period at sea.



National indicators

Senegal's industrial catches (tonnes) by fleet

Year	Sardinière	Thonière	Chalutière	Etrangère	Total
1990	18,213	10,147	45,375	17,299	91,034
1991	7,797	30,464	50,541	49,483	138,285
1992	5,649	28,312	46,797	90,439	171,197
1993	3,311	37,203	38,945	107,765	187,224
1994	3,506	37,902	40,635	69,017	151,060
1995	5,376	35,618	51,317	60,274	152,585
1996	7,785	28,392	52,611	49,188	137,976
1997	9,478	27,616	63,160	37,658	137,912

Demersal	16,162	21,521	18,701	15.7	8,854	10,227	8,680	-2
Pelagic	56	383	563	905	352	408	855	142
Shellfish	972	1,802	4,178	329.8	840	1,345	2,745	226.7
Brixham Total	12,335	17,691	16,971	37	8,971	10,313	8,770	-2.2
Demersal	9,009	9,977	11,080	22.9	5,248	4,399	4,537	-13.5
Pelagic	386	300	445	15.2	1,726	742	1,046	-39.3
Shellfish	2,940	7,414	4,235	44	1,987	5,171	3,307	66.4
Plymouth Total	3,867	6,527	11,585	199	9,313	17,536	18,558	99.2
Demersal	1,952	1,569	3,830	96.2	1,149	735	1,750	52.3
Pelagic	841	2,143	1,779	111.5	7,277	14,593	9,459	30
Shellfish	1,073	2,815	3,077	186.7	887	2,209	2,110	137.8

Source. MAFF Sea Fisheries Statistics 1991-1998, Fishing News 1999.

Total landings into Newlyn by volume, was 12,389 tonnes in 1998 an increase of 23% on 1991 (10,045 tonnes). This represents 9% of the total volume of landings into England and Wales in 1998, and 31% of total landings into the three major ports in Devon and Cornwall. Total landings by value, into Newlyn were £22,443,235 in 1998, an increase of 30.5% on 1991 (£17,189). This represents 4.8% of the total value of landings into England and Wales in 1998, and 44% of the total value of landings into the three major ports in Devon and Cornwall. Despite an increase in the value of landings into Newlyn over the period 1991-1998, industry representatives have suggested that prices of fish have been adversely affected by bulk landings into Spanish ports by Scottish vessels.

Of the total landings into Newlyn in 1998, 70% were demersal species, although in 1991 demersal species represented 88% of the catch composition. Further, demersal species accounted for 83.3% of the total value of landings into Newlyn in 1998, although in 1991 this was 94%. Shellfish species represented the second largest proportion of landings by weight (2,745 tonnes) and value (£4,178) into Newlyn in 1998, and while pelagic species only contributed 7% by volume and 2.5% by value of total landings into Newlyn in 1998, value of pelagic species has increased by 905% on 1991. However industry representatives suggest that increased landings in pelagic fish and scallops give the impression of increases in total landings, when in fact the reverse is true.

Over the period 1990-1996 the proportion of landings at Newlyn subject to quota restrictions has decreased by 14.5% from 75%-60.5%. In terms of volume of landings,

Selected indicators for the fishery sectors of the Member States (table incomplete; sources: various national reports)

Indicators	Cape Verde	Gambia	Guinea	Guinea Bissau	Mauritania	Senegal
Reference year	1997 & 98	1997				1997
Currency/ US\$ conversion	Esc/102	Dalasi10			Oug/188?	FCFA mill.
Fisheries sector % GDP	1.5 - 2.4	240%	1.3%	7-10%(0.6% art.)	6%	3%
Sector contribution to gov. rev %		700%	2.5%	40%	27%	
Landings (tonnes)			81,000			453,000
Value of landings (local)	10.7 million US\$		15 m. \$ (art.)			113 b. FCFA
Value of production (local)					184 m\$	278
Exports value	190-280 million Esc				186	165
Exports (1000 tonnes)	1,200-3,100				46%	>50%
Value fish exports as % total exports						
Consumption (kg/capita)	17-20	20	13	7 - 13		
% animal protein	15%					75%
Industrial processing plants (tuna/ sm. pel.)	2		11 major	3 (freezer)		4
Canned products (tonnes/yr)	350					17,910
Population (1000)	417	1,248	7,405	1,178	2,347	9,404
Sector employment	28,500	3,100	30,000	15,000	30,422	
No. of fishermen	6,167	2,000	9,097	2,100	20,092	57,000
- artisanal	5,675		7690	1,125	10,000	52,187
- industrial					10,092	
% of population employed	6%	0.2%	0.4%	1.3%	1.3%	7.0%
EEZ (km2)	734,265	19500	71000	150500	213,840	205700
Continental shelf 200m (km2)	5,394	4,000	56,000	45,000	36,000	24,000
Coastline (km)	2,000	70	300	274	667-754	576
Estimated resource potential	45,000	80-92,000	120,000?			
- demersal finfish	8,000	15,000 - 17,000	45,000	30,000		
- crustacea	100	1000	1-2,000	4,000		
- large pelagics	25-30,000	65,000 - 75,000	5,000	?		
- small pelagics (coastal)	10-12,000	large & small	50-200,000	100,000		
Estimated total catch/ landings	10,000		87-95000			
- artisanal catch/landings	3,161		48,500			352,929
- industrial catch/ landings	4,218		50,800			137,912
Estimated tuna catches	3,300					17,400 (ind)
Estimated small pelagics catches	4,400		55,000			

accounted for 7.3% of the workforce in the region. Indeed, of the 20 TTWAs in England and Wales, 4 of the regions with the highest levels of unemployment are located in Cornwall. With a heavy reliance on traditional sectors such as fishing and farming, employment opportunities are limited although the growth of the service sector has been most significant in recent years (accounting for 71% of employees in 1997). Subsequently GDP for Cornwall in 1995 was £3,476 million (the second lowest in the country) only accounting for 71.5% of the UK average and the index of local deprivation indicates Penwith has a rank of 77 (Regional Trends. 1998).

Externalities of fishing

Tourism in the area is the only traditional industry which is currently expanding with an estimated 4 million visitors a year spending £930 million and having a mostly positive impact on the fishing industry in Cornwall.

Industry representatives have indicated that vessels from other regions of the UK, (such as Liverpool and North East Scotland) have had a detrimental impact on some of the shellfish beds off the South Coast of Cornwall. The smaller inshore vessels of Newlyn have been unable to compete with the larger Scottish scallopers or Liverpool boats targeting cockles, who have subsequently exhausted the specific fisheries. This form of externality has adversely affected the fishing industry in Newlyn.

3.2.5.3 Fishing

Production Issues

In terms of value of landings, Newlyn and Brixham have been dominant in the Cornwall and Devon region over the period 1991-1998, however in terms of volume, Plymouth has been imposing over this period (Table 3.2.10).

Table 3.2.10 Landings by major ports in Devon and Cornwall 1991-1998

	Value (£'000s)				Quantity (tonnes)			
	1991	1995	1998	% change 91-98	1991	1995	1998	% change 91-98
Newlyn Total	17,189	23,704	22,443	30.5	10,045	11,978	12,389	23.3

The population of the Penwith area has increased by 9.8% from 54,200 to 59,500 over the period 1981-1997. Newlyn had a population of 4105 in 1997, an increase of 1.6% on 1981 (4040), which represented 6.8% of the total Penwith population in 1996. In 1996, of the total Newlyn population 1,667 residents were economically active.

In 1996 Newlyn had a workforce of 289,000 of which 27.9% (80,631) were unemployed. Further, of the total work force in 1996, 48% (138,720) were female (Table 24). Unemployment in Newlyn is comparatively high and represents 10.6% (65,084) of the total population in 1996, although those who are recognized as long term unemployed represent 5% of the total population.

On average adults in Devon earned 9.2% more than adults in Cornwall in 1998. Further males in Cornwall earned on average 27% more than females (Table 3.2.9) although this is 25.2% below the national average of £427.1.

Table 3.2.9 Average gross weekly earnings for full time adult employees, (£) 1998.

	All Adults	Male			Female		
		Manual	Non Manual	All Males	Manual	Non Manual	All Females
Cornwall	291.8	262.6	-	319	171.9	275.1	250.6
Devon	318.7	289.8	403.7	343.5	205.2	289.9	272.8

Source. Earnings Survey: Office for National Statistics (1998)

In 1996 there were 2,212 fisherman in Devon and Cornwall of which 444 (20%) are located in Newlyn. Total employment in the Newlyn area related to fishing was 1776, substantially higher than any other port in the area and 32% larger than Brixham in Devon.

Claimant unemployment in the Penwith region was 1,680 in July 1999 (6.7% of the total population). Assuming that 69% of those unemployed are male (based on data for Penwith and Isles of Scilly) it can be estimated that 1159.2 males are unemployed and 521 are female. Despite a national decline in unemployment, Cornwall is substantially above the national average (Cornwall County Council. 1998) and