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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Gabonese Republic

PROTOCOL
SETTING OUT THE FISHING OPPORTUNITIES
AND THE FINANCIAL CONTRIBUTION
PROVIDED FOR BY THE FISHERIES PARTNERSHIP AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE GABONESE REPUBLIC

ARTICLE 1

Period of application and fishing opportunities

1. From the date of the provisional application of the Protocol, and for a period of three (3) years, the fishing opportunities granted under Articles 5 and 6 of the Agreement shall be set out to allow the highly-migratory species listed in Annex 1 to the United Nations Convention on the Law of the Sea to be caught, with the exception of those species protected or prohibited by ICCAT or under Gabonese legislation.

2. From the date of the provisional application of the Protocol, activities carried out by the following vessels may benefit from fishing opportunities:
 - (a) 27 freezer tuna seiners

 - (b) 8 pole-and-line tuna vessels

This paragraph shall apply subject to Articles 5 and 6 of this Protocol.

3. Access to fishery resources in Gabonese fishing zones shall be granted to foreign fleets to the extent that there is a surplus within the meaning of Article 62 of the United Nations Convention on the Law of the Sea and having taken into account the operating capacity of the national Gabonese fleets.

4. Under Article 6 of the Agreement, vessels flying the flag of a Member State of the European Union may fish in Gabonese fishing zones only if they are in possession of a fishing authorisation issued under this Protocol in accordance with Annex 1 hereto.

ARTICLE 2

Financial contribution – Methods of payment

1. For the period referred to in Article 1, the financial contribution referred to in Article 7 of the Fisheries Partnership Agreement shall be EUR 1 350 000 per year.
2. The financial contribution comprises:
 - (a) an annual amount for access to the Gabonese fishing zone of EUR 900 000, equivalent to a reference tonnage of 20 000 tonnes per year, and
 - (b) a specific amount of EUR 450 000 per year for support to and implementation of the Gabonese sectoral fisheries policy.
3. Paragraph 1 shall apply subject to Articles 4, 5, 7 and 9 of this Protocol.

4. Payment of the financial contribution laid down in paragraph 2(a) on access by European Union vessels to Gabonese fishery resources shall be made by the European Union no later than three (3) months after the date of provisional application of the Protocol for the first year and on the anniversary of the signing of the Protocol for the following years.
5. The two Parties have agreed to improve the regular monitoring of catches taken by EU vessels in the Gabonese fishing zone. To this end, over the course of the fishing season, the EU will regularly analyse data on the catch and effort of EU fishing vessels operating in the Gabonese fishing zone. The EU will regularly update Gabon on the outcome of these analyses. In order to manage the possibility of the reference tonnage being exceeded, the EU shall inform its Member States and Gabon as soon as the total registered catch in the Gabonese fishing zone reaches 80 % of the reference tonnage of 20 000 tonnes.
6. As soon as the overall catch quantity reaches 80 % of the reference tonnage, a meeting of the Joint Committee shall be held in order to establish how Gabon shall receive the additional payment due on account of this possible excess.
7. Save as provided for under paragraph 6 of this Article, where the quantities caught by European Union vessels exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.
8. The Gabonese authorities shall have full discretion regarding the use to which the financial contribution defined under paragraph 2(a) is put.

9. The financial contribution shall be paid into a single Gabonese Public Treasury account, the references of which shall be notified each year by the Gabonese authorities.

ARTICLE 3

Promoting responsible fishing and sustainable fisheries in the Gabonese fishing zone

1. The two Parties undertake to promote responsible fishing in the Gabonese fishing zone based on the principles of sustainable exploitation of fishery resources and marine ecosystems.
2. The European Union and Gabon shall agree, within the Joint Committee provided for in Article 9 of the Agreement, from the date of provisional application of this Protocol, and at the latest three months after that date, on a multiannual sectoral programme, in line with the Gabonese national strategy on fisheries and the European Commission's political framework, and on the detailed implementing rules, including in particular:
 - (a) annual and multiannual guidelines for using the specific amount of the financial contribution referred to in Article 2(2);
 - (b) the objectives, both annual and multiannual, to be achieved with a view to introducing responsible fishing and sustainable fisheries, taking account of the priorities expressed by Gabon in its national fisheries policy, and other policies relating to or having an impact on the promotion of responsible fishing and sustainable fisheries, including marine protected areas;

- (c) criteria and procedures including, where appropriate, budgetary and financial indicators, to be used for evaluating the results obtained each year.
3. The use to which the amounts are put shall be based on a common agreement between the two Parties within the Joint Committee on the objectives to be achieved, in line with the Strategic Plan for Emerging Gabon by the fisheries sector and based on an estimate of the expected impact of the projects to be carried out.
4. For the first year of the Protocol, the financial support issued by Gabon to the fisheries sector shall be notified to the EU or approved by the Joint Committee.
5. Each year, Gabon shall present how the projects implemented with sectoral financial support have progressed, in the form of an annual achievement report to be examined by the Joint Committee. A final report shall also be produced by Gabon before the Protocol expires.
6. The specific financial contribution to support the sector shall be paid in instalments based on an analysis of the outcomes of the sectoral support and of needs.
7. Any proposed amendments to the multiannual sectoral programme must be approved by the two Parties within the Joint Committee.

ARTICLE 4

Scientific cooperation on responsible fishing

1. The two Parties shall undertake to promote responsible fishing in Gabonese waters based on the principle of non-discrimination as regards technical conservation measures between the different fleets operating in those waters and the principle of sustainable management of fishery resources and marine ecosystems.
2. Over the period covered by this Protocol, the European Union and Gabon shall undertake to cooperate in order to monitor the state of fishery resources in the Gabonese fishing zone and to contribute to fishery development.
3. The two Parties shall comply with the recommendations and resolutions of the International Commission for the Conservation of Atlantic Tunas (ICCAT) regarding the responsible management of fisheries.
4. In accordance with Article 4 of the Fisheries Partnership Agreement, on the basis of the recommendations and resolutions adopted within ICCAT and in the light of the best scientific advice available, the Parties shall consult each other within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement to take measures to ensure the sustainable management of the fish species covered by this Protocol and concerning the activities of European Union vessels.

5. Where necessary, as provided for under Article 4.2 of the Agreement, a meeting of scientific experts representing the two Parties may be convened at the request of either of the Parties. Participation in that meeting may also be extended, where necessary, to third party scientific experts and observers, representatives of stakeholders or representatives of regional and international fishery management bodies.

ARTICLE 5

Review of fishing opportunities

1. The Parties may adopt, in the Joint Committee, measures as referred to in Articles 1 and 2 of this Protocol entailing a review of fishing opportunities. In that case, the financial contribution shall be adjusted proportionately and pro rata temporis.

2. With regard to categories not provided for by the Protocol in force, the two Parties may, in accordance with Article 6 second subparagraph of the Agreement, include new fishing opportunities on the basis of the best scientific advice, endorsed by the Independent Joint Scientific Committee and adopted by the Joint Committee.

ARTICLE 6

New fishing opportunities

1. At the request of Gabon, the Gabonese Government may call on the European Union in order to consider the possibility of experimental fishing in order to exploit certain fisheries, under the direct supervision of scientists representing the two Parties and either ICCAT or the relevant regional fisheries organisation.
2. The two Parties shall encourage experimental fishing in the Gabonese fishing zone. To that end, at the request of Gabon, they shall consult each other and determine on a case-by-case basis the relevant species, conditions and other parameters. The two Parties shall carry out experimental fishing in line with the conditions laid down by the Scientific Committee set up under this Protocol.
3. The authorisations for experimental fishing shall be granted for a maximum of 12 months. In the event that the Parties consider that experimental campaigns have given positive results, the Government may allocate fishing opportunities for new species to the European Union fleet until this Protocol expires. The financial compensation referred to in Article 2(1) of the current Protocol shall consequently be increased.
4. Vessels involved in exploratory fishing within the meaning of this Protocol must have an observer on board, as laid down in the Annex.

ARTICLE 7

Suspension and review of the payment of the financial contribution

1. The financial contribution referred to in Article 2(2)(a) and (b) may be revised or suspended after consultation between the two Parties if one or more of the following conditions apply:
 - (a) unusual circumstances, as defined in Article 2(h) of the Fisheries Partnership Agreement, preventing fishing activities in the Gabonese fishing zone;
 - (b) significant changes in the formulation or implementation of the fisheries policy of either one of the Parties affecting the provisions of this Protocol;
 - (c) if the European Union or Gabon note that there has been a violation of the essential and fundamental human rights provided for in Article 9 of the Cotonou Agreement and following the procedure provided for in Articles 8 and 96 of that Agreement;
2. In the cases referred to in the first paragraph, fishing activities shall be suspended. The payment shall be revised or suspended without prejudice to the financial contribution due for fishing activities carried out prior to the suspension decision.
3. Following the evaluation provided for in Article 3(4), the European Union reserves the right to suspend, partially or fully, the payment of the financial contribution for the fisheries sector as provided for in Article 2(2)(b) of this Protocol in the event of failure to adhere to the objectives of the planning of the sectoral support or failure to implement the financial contribution.

4. Payment of the financial contribution shall resume after consultation and agreement by the two Parties, as soon as the situation existing prior to the events referred to in paragraph 1 has been re-established and/or if the results of the financial implementation referred to in paragraph 2 so warrant. Nevertheless, the specific financial contribution provided for in Article 2(2)(b) may not be paid beyond a period of 6 months after the Protocol expires.

ARTICLE 8

Suspension of the implementation of the Protocol

1. The implementation of this Protocol may be suspended at the initiative of one of the two Parties if one or more of the following conditions apply:
 - (a) unusual circumstances, as defined in Article 2(h) of the Fisheries Partnership Agreement, preventing fishing activities in the Gabonese fishing zone;
 - (b) significant changes in the policy guidelines of one or other of the Parties affecting the provisions of this Protocol;
 - (c) if the European Union or Gabon note that there has been a violation of the essential and fundamental human rights provided for in Article 9 of the Cotonou Agreement and following the procedure provided for in Articles 8 and 96 of that Agreement;
 - (d) there is non-payment of the financial contribution provided for in Article 2(2)(a) by the European Union, for reasons other than those provided for in Article 10.2 of this Protocol;

- (e) there is a dispute between the two Parties concerning the interpretation of this Protocol;
 - (f) one of the two Parties does not comply with the provisions of this Protocol and the Annex and appendices thereto.
2. Implementation of the Protocol may be suspended at the initiative of one Party if it has not been possible to settle the dispute between the Parties in consultations held within the Joint Committee.
 3. Suspension of application of the Protocol shall require the Party concerned to notify its intention in writing at least three months before the date on which suspension is due to take effect.
 4. In the event of suspension, the Parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where such a settlement is reached, application of the Protocol shall resume and the amount of the financial contribution shall be reduced proportionately and pro rata temporis according to the period during which application of the Protocol was suspended.
 5. In the event of actual suspension, European Union vessels must leave the Gabonese fishing zone within 24 hours.

ARTICLE 9

National law

1. The activities of European Union fishing vessels in the Gabonese fishing zone are subject to the laws and regulations in force in Gabon, unless otherwise provided for under this Protocol and the Annexes thereto.
2. The Gabonese authorities shall inform the European Commission of any changes to its fisheries policy or new sectoral legislation before their entry into force.
3. In the event that the new provisions under Gabonese national legislation, as referred to in point 2, contradict the provisions of this Protocol and the Annexes thereto, the Joint Committee shall be convened as soon as possible in order to clarify those contradictions directly affecting the fishing activity of European Union vessels.

ARTICLE 10

Electronic communication

1. The Gabonese Republic and the European Union shall undertake to install as soon as possible the computer systems required for the electronic exchange of all the information and documents related to the implementation of the Agreement.

2. The electronic version of a document shall be considered to be the equivalent of a paper document in every way, after approval by the competent authorities as defined under Chapter I of the Annex to this Protocol.

3. Gabon and the European Union shall inform each other of any malfunction of a computer system as soon as possible. The information and documents related to the implementation of the Agreement shall then be automatically replaced by their paper version.

ARTICLE 11

Confidentiality

The Gabonese Republic and the European Union shall undertake that all nominative data relating to EU vessels and their fishing activities obtained within the framework of the Agreement will, at all times, be processed strictly in accordance with the principles of confidentiality and data protection.

The two Parties shall ensure that only aggregate data on fishing activity in Gabonese waters is made publicly available, in line with the relevant ICCAT provisions. Data which may be considered confidential must be used by the competent authorities exclusively for the purposes of implementing the Agreement and for fishery management, controls and monitoring.

ARTICLE 12

Duration

This Protocol and the Annexes thereto shall apply for a duration of three (3) years from the date of provisional application as laid down under Article 14.

ARTICLE 13

Termination

1. In the event of termination of the Protocol, the Party concerned shall notify the other Party in writing of its intention to terminate it at least three months before the date on which such termination would take effect.
2. Dispatch of the notification referred to in the previous paragraph shall open consultations by the Parties.

ARTICLE 14

Provisional application

This Protocol and the Annexes thereto shall be provisionally applied as from the date of its signature.

ARTICLE 15

Entry into force

This Protocol and the Annexes thereto shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

For the European Union

For the Gabonese Republic

CONDITIONS GOVERNING FISHING ACTIVITIES
BY EUROPEAN UNION VESSELS
IN THE GABONESE FISHING ZONE

CHAPTER I

GENERAL PROVISIONS

1. Designation of competent authority

For the purposes of this Annex and unless otherwise specified, any reference to the European Union (EU) or to Gabon as a competent authority shall mean:

- for the EU: the European Commission, where applicable via the EU delegation to Gabon;
- for Gabon: the Ministry responsible for fisheries.

2. Gabonese fishing zone

EU vessels may carry out fishing activities in waters beyond 12 nautical miles from the baselines within the Gabonese fishing zone, subject to the provisions of point 3 below.

Before provisional application of the Protocol, Gabon shall inform the EU of the geographical coordinates of the baselines, its fishing zone and all zones within it which are closed to fishing.

3. Zones closed to shipping and to fishing

The zones adjacent to oil extraction and exploration activities shall be closed to all shipping. European Union vessels shall ensure that none of their fish aggregating devices (FADs) fitted with transponders enter these zones or the 12 nautical miles from the baseline.

Zones closed to fishing shall include national parks, marine protected areas and fish breeding grounds, in line with the national legislation in force.

The Ministry responsible for fisheries in the Gabonese Republic shall notify the coordinates of these zones to vessel owners when the fishing licence is issued.

The zones closed to shipping and fishing shall also be notified for information purposes to the EU, as shall all changes to those zones, which must be announced at least two months before enforcement.

4. Prohibitions

Support vessels shall be prohibited in the Gabonese fishing zone.

5. Appointment of a local agent

Any EU vessel which plans to land in a Gabonese port must be represented by a consignee resident in Gabon.

6. Bank account

Before provisional application of the Protocol, Gabon shall notify the EU of the details of the bank account(s) into which the financial sums payable by EU vessels under the Agreement must be paid. The associated bank transfer costs shall be borne by the vessel owners.

CHAPTER II

FISHING AUTHORISATIONS

For the purposes of applying the provisions of this Annex, the term 'licence' shall be equivalent to 'fishing authorisation', as defined in European Union legislation.

1. Condition for obtaining a fishing authorisation – Eligible vessels

The fishing authorisations referred to in Article 6 of the Agreement shall be issued on the condition that the vessel is included in the EU register of fishing vessels and that all previous obligations of the vessel owner, the master, or the vessel itself arising from their fishing activities in Gabon under the Agreement have been met. Each vessel wishing to fish under this Protocol must also be included in the ICCAT record of vessels.

2. Licence applications

The EU shall submit to Gabon a licence application for any vessel wishing to fish under the Agreement at least 15 days before the start of the period of validity requested using the form attached to this Annex as Appendix 1. For each initial licence application on the basis of the Protocol in force, or following a technical change to the vessel concerned, the application shall be accompanied by:

- (i) proof of payment of the flat-rate fee for the period of validity of the licence requested;
- (ii) the name and address of the local consignee for the vessel, where there is one;
- (iii) a recent colour photograph of the vessel, showing a lateral view, and at least 15 cm x 10 cm in size;
- (iv) the coordinates of the VMS transponder and any other document specifically required under the Agreement.

For the renewal of a licence under the Protocol in force for a vessel whose technical specifications have not been modified, the renewal application shall be accompanied only by proof of payment of the fee.

3. Flat-rate and national fee

1. The flat-rate fee shall include all national and local charges except for port taxes and service charges.
2. Annual flat-rate fees payable by vessel owners shall be as follows for tuna seiners and pole-and-line tuna vessels:
 - For the first year of application of the Protocol: EUR 55 per tonne caught within Gabonese waters
 - For the second and third years: EUR 65 per tonne fished
3. Licences shall be issued once a national fee for the following flat-rate amount has been paid to the competent national authorities:
 - EUR 13 750 per year for tuna seiners and pole-and-line tuna vessels, for the duration of the Protocol.

4. Provisional list of vessels requesting a licence

Once it has received the licence applications, Gabon shall immediately draw up, for each category of vessel, the provisional list of applicant vessels. This list shall be sent without delay to the national body responsible for supervising fishing, and to the EU.

The EU shall forward the provisional list to the vessel owner or to the consignee. If the EU offices are closed, Gabon may send the provisional list directly to the vessel owner or their consignee with a copy to the EU.

5. Issuing of the licence

Gabon shall issue the licence to vessel owners within 15 days of receiving the full application file.

Where a licence is renewed during the period in which the Protocol applies, the new licence must contain a clear reference to the initial licence.

The EU shall forward the licence to the vessel owner or to the consignee. If the EU offices are closed, Gabon may send the licence directly to the vessel owner or their consignee with a copy to the EU.

6. List of vessels authorised to fish

Once the licence is issued, Gabon shall draw up immediately for each category of vessel the final list of vessels which are authorised to fish in the Gabonese zone. This list shall be sent immediately to the national body responsible for monitoring fishing and to the EU and shall replace the provisional list referred to above.

7. Period of validity of the licence

Fishing authorisations shall be valid for one year and be renewable.

In order to establish the start of the period of validity, 'annual period' shall mean:

- (i) for the first year of application of the Protocol, the period between the date of its entry into force and 31 December of the same year;
- (ii) then, each complete calendar year;
- (iii) for the last year of application of the Protocol, the period between 1 January and the date of expiry of the Protocol;
- (iv) for the first and last years of the Protocol, the national fee shall be calculated pro rata temporis.

Licences shall be issued for a specific vessel and shall not be transferable.

However, where force majeure is proven, e.g. in the event of the loss or prolonged immobilisation of a vessel due to a serious technical failure, and at the request of the EU, the licence shall be replaced by a new authorisation for another vessel of the same fishing category as the vessel being replaced, as referred to in Article 1 of the Protocol, with no further fee due. In this case, the calculation of the catch levels to determine whether an additional payment should be made shall take account of the sum of the total catches of the two vessels.

The transfer shall involve the licence to be replaced being returned by the vessel owner or their consignee in Gabon, and Gabon drawing up the replacement authorisation as soon as possible. The replacement authorisation shall be issued as soon as possible to the vessel owner or their consignee when the authorisation to be replaced is returned. The replacement authorisation shall take effect on the day on which the authorisation to be replaced is returned.

8. Keeping a licence on board

The licence, or failing that, a copy valid for 45 days after the issue date, must be kept on board at all times.

However, vessels shall be authorised to fish as soon as they are included on the provisional list referred to in point 4. Vessels must keep a copy of the provisional list on board at all times until their licence is issued.

Gabon shall update the list of vessels authorised to fish as soon as possible. The new list shall be sent without delay to the national body responsible for supervising fishing, and to the EU.

CHAPTER III

TECHNICAL MEASURES

Technical measures applicable to the vessels holding a licence, relating to the zone, fishing gear and additional catch, shall be defined for each fishing category in the technical sheets contained in Appendix 2 to this Annex.

The vessels shall comply with all the recommendations adopted by ICCAT (International Commission for the Conservation of Atlantic Tunas) and the provisions under the relevant Gabonese legislation.

During fishing operations in the Gabonese fishing zone, and with the exception of natural drifting fish aggregating devices (FADs), the use of fishing supports which change the behaviour of highly migratory species and encourage in particular their concentration near to or beneath the fishing support, shall be limited to so-called green artificial drifting FADs, designed, built and used in a way which helps to avoid cetaceans, sharks or turtles being caught accidentally by the support. These supports must be made from biodegradable materials. The deployment and use of such artificial drifting FADs shall be subject to the adoption by the European Union of a management plan in line with the provisions adopted by ICCAT.

CHAPTER IV

CATCH REPORTING

1. Fishing log

The master of an EU vessel fishing under the Agreement shall keep a fishing logbook in French, for which the model for each category of fishing is included in Appendix 3 to this Annex.

The fishing logbook shall be completed by the master for each day the vessel is present in the Gabonese fishing zone.

Each day the master shall record in the fishing logbook the quantity of each species, identified by its FAO alpha 3 code, caught and kept on board, expressed in kilograms of live weight or, where necessary, the number of individual fish. For each main species, the master shall also include the bad catch.

Where applicable, the master shall also record each day in the fishing logbook the quantities of each species thrown back into the sea, expressed in kilograms of live weight or, where necessary, the number of individual fish.

The fishing logbook shall be filled in legibly, in block capitals, and signed by the master.

The master shall be responsible for the accuracy of the data recorded in the fishing logbook.

2. Catch reporting

The master shall notify the vessel's catch by submitting to Gabon its fishing logbooks for the period of its presence in the Gabonese fishing zone.

The fishing logbooks shall be transmitted in one of the following ways:

- (i) when passing through a Gabonese port, the original of each fishing logbook shall be submitted to the local representative of Gabon, who shall confirm receipt thereof in writing;
- (ii) when leaving the Gabonese fishing zone without first passing through a Gabonese port, the original of each fishing logbook shall be sent within a period of 14 days after arrival in any other port, and in any case within a period of 30 days after leaving the Gabonese zone.
 - (a) by letter sent to Gabon,
 - (b) or by fax, to the number given by Gabon,
 - (c) or by e-mail.

The two Parties shall make every effort to establish a system for reporting catches based on the electronic exchange of all the data, in view of accelerating its transmission.

As soon as it is possible for catch declarations to be sent by e-mail, the master shall send the fishing logbooks to Gabon at the e-mail address given by Gabon. Gabon shall confirm receipt thereof immediately by return e-mail.

The master shall send a copy of all the fishing logbooks to the EU Delegation to Gabon. For tuna seiners and pole-and-line tuna vessels, the master shall also send a copy of all the fishing logbooks to the Gabonese Institut de Recherche Agricole et Forestière (Institute of Agricultural and Forestry Research – IRAF) and one of the following scientific institutes:

- (i) IRD (Institut de recherche pour le développement)
- (ii) IEO (Instituto Español de Oceanografía),
- (iii) IPMA (Instituto Português do Mar e da Atmosfêra),

The return of the vessel into the Gabonese zone within the period of validity of its licence shall give rise to further catch reporting.

Where the provisions concerning catch reporting are not complied with, Gabon may suspend the licence of the vessel concerned until the missing catch report is obtained and penalise the vessel owner in accordance with the relevant provisions under the national legislation in force. If the offence is repeated, Gabon may refuse to renew the licence. Gabon shall inform the EU immediately of any penalty applied in this context.

3. Transition to an electronic system

The two Parties indicate their shared willingness to ensure a transition to an electronic system for declaring catches based on the technical characteristics laid down in Appendix 6. The parties agree to determine together the transmission arrangements with the aim of the system becoming operational as soon as possible. Gabon shall inform the EU as soon as the conditions for this transition have been met. From the date this information is sent, the two Parties shall agree to have the system fully operational within two months.

4. Final statement of fees for the tuna seiners and pole-and-line tuna vessels

Until the electronic system provided for under point 3 is in place, the EU shall draw up for each tuna seiner and pole-and-line tuna vessel, on the basis of its catch reporting confirmed by the above scientific institutes, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year.

The EU shall send this final statement to Gabon and to the vessel owner before 31 July of the year in progress.

From the date the electronic system provided for under point 3 is actually in place, the EU shall draw up for each tuna seiner and pole-and-line tuna vessel, on the basis of the logbooks archived at the fisheries monitoring centre (FMC) of the flag State, a final statement of the fees owed by the vessel in respect of its annual season for the previous calendar year.

The EU shall send this final statement to Gabon and to the vessel owner before 31 March of the year in progress.

In both cases and within 30 days of being sent, Gabon may contest the final statement, on the basis of documentary proof. In the case of disagreement, the Parties shall consult each other in the Joint Committee. If Gabon does not object within 30 days, the final statement shall be considered to be adopted.

On the date the final catch statement is sent to Gabon, the EU shall transmit a summary of the data on the catch and effort of EU vessels in respect of their fishing activity on FADs in the Gabonese fishing zone, in accordance with the measures and requirements adopted by ICCAT, particularly in Recommendation 11-01.

CHAPTER V

LANDINGS

1. Landing procedure

The master of an EU vessel wishing to land catch from the Gabonese zone in a Gabonese port must notify Gabon, at least 24 hours before landing, of the following:

- (a) the name of the fishing vessel which is to land,
- (b) the port of landing,

- (c) the planned date and time of the landing,
- (d) the quantity (expressed in kilograms of live weight or, if necessary, the number of individual fish) of each species to be landed (identified by its FAO alpha 3 code).

Vessels must land in Gabonese ports all their by-catch caught in the Gabonese fishing zone.

The landing operation must be carried out in the waters of a Gabonese port authorised for this purpose. Transshipment is prohibited.

Non-compliance with these provisions shall lead to the application of the relevant penalties provided for under Gabonese legislation.

2. Landing incentive

(a) Tuna seiners

Once the port structures and tuna processing facilities are operational in Gabon, vessel owners shall undertake to land a minimum of 30 % of the catch from Gabonese waters, taking into account the actual needs of the production unit. When landing, tuna-fishing vessels shall also land 100 % of the by-catch kept on board, in order to supply the local market. These landings in Gabon must be able to benefit from the market price. Should the production unit be undersupplied, the Parties shall convene the Joint Committee in order to find a solution.

- (b) Pole-and-line vessels

Vessel owners shall undertake to land 100 % of the catch from Gabonese waters in order to supply the local market.

- (c) The provisions referred to in paragraph 2(a) shall apply subject to notification from the Gabonese Party that the relevant infrastructure is in fact operational, and following examination by the Joint Committee.

CHAPTER VI

CHECKS

1. Entering and leaving the zone

Gabon must be notified of any EU vessel holding a licence which enters or exits the Gabonese fishing zone 6 hours before the entry or exit.

When notifying its entry or exit, the vessel shall notify in particular:

- (i) the date, time and point of passage scheduled;
- (ii) the quantity of each species held on board, identified by its FAO alpha 3 code and expressed in kilograms of live weight or, if necessary, the number of individual fish;
- (iii) the product presentation.

Notification shall be given preferably by e-mail or, failing that, by fax or radio, to an e-mail address, a telephone number or a frequency communicated by Gabon. Gabon shall confirm receipt thereof immediately by return e-mail. Gabon shall immediately inform the vessels concerned and the EU of any change to the e-mail address, telephone number or transmission frequency.

Any vessel found to be fishing in the Gabonese zone without having previously notified its presence shall be considered to be a vessel fishing illegally.

2. Inspection at sea

Inspection at sea in the Gabonese zone of EU vessels holding a licence shall be carried out by vessels and inspectors from Gabon who are clearly identified as being assigned to carry out fishing checks.

Before going on board, the Gabonese inspectors shall warn the EU vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

The Gabonese inspectors shall only stay on board the EU vessel for the time necessary to carry out tasks linked to the inspection. They shall carry out the inspection in a way which minimises the impact on the vessel, its fishing activity and cargo.

Gabon may authorise the EU to participate in the inspection at sea as an observer.

The master of the EU vessel shall allow the Gabonese inspectors to come on board and carry out their work.

At the end of each inspection, the Gabonese inspectors shall draw up an inspection report. The master of the EU vessel shall have the right to include his comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the EU vessel.

The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of an infringement. If the master refuses to sign this document, he or she shall specify the reasons for doing so in writing and the inspector shall write 'refusal to sign' on it. The Gabonese inspectors shall give a copy of the inspection report to the master of the EU vessel before leaving the vessel. Gabon shall send a copy of the inspection report to the EU within 8 days of the inspection.

3. Inspection in port

The inspection in port of EU vessels which land catch from the Gabonese zone in the waters of a Gabonese port shall be carried out by designated inspectors from Gabon. .

The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection. The Gabonese inspectors shall only stay on board the EU vessel for the time necessary to carry out the tasks related to the inspection and shall conduct the inspection in a way which minimises the impact on the vessel, landing operation and cargo.

Gabon may authorise the EU to participate in the inspection in port as an observer.

The master of the EU vessel shall allow the Gabonese inspectors to carry out their work.

At the end of each inspection, the Gabonese inspector shall draw up an inspection report. The master of the EU vessel shall have the right to include his comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the EU vessel.

The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of an infringement. If the master refuses to sign this document, he or she shall specify the reasons for doing so in writing and the inspector shall write 'refusal to sign' on it.

The Gabonese inspectors shall give a copy of the inspection report to the master of the EU vessel at the end of the inspection. Gabon shall send a copy of the inspection report to the EU within 8 days of the inspection.

4. Participatory monitoring in the fight against IUU fishing

In order to strengthen monitoring of fishing on the high seas and the fight against IUU fishing, European Union fishing vessels shall report the presence of any vessels in the Gabonese fishing zone which are not on the list of vessels authorised to fish in Gabon.

Where the master of an EU fishing vessel witnesses a fishing vessel engaged in activities which may constitute IUU fishing, he or she may seek as much information as possible about what has been sighted. Sighting reports shall be sent without delay to the competent authority of the Member State of the sighting vessel, which shall immediately transmit them to the European Commission or to the body designated by it. The European Commission shall provide Gabon with this information.

Gabon shall send the EU any sighting reports it has on fishing vessels engaged in activities which may constitute IUU fishing in the Gabonese fishing zone.

CHAPTER VII

SATELLITE-BASED VESSEL MONITORING SYSTEM (VMS)

1. Vessel position messages – VMS system

Whilst they are in the Gabonese zone, EU vessels holding a licence must be equipped with a satellite monitoring system (Vessel Monitoring System – VMS) to enable automatic and continuous communication of their position, at all times, to the fishing control centre (Fisheries Monitoring Centre – FMC) of their flag State.

Each position message must contain:

- (a) the vessel identification;
- (b) the most recent geographical position of the vessel (longitude, latitude), with a position error of less than 500 metres, and with a confidence interval of 99 %;
- (c) the date and time the position is recorded;
- (d) the speed and the course of the vessel.

Each position message must be configured in accordance with the format included in Appendix 4 to this Annex.

The first position recorded after entry into the Gabonese zone shall be identified by the code 'ENT'. All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after exit from the Gabonese zone, which shall be identified by the code 'EXI'.

The CSP of the flag State shall ensure the automatic processing and, if necessary, the electronic transmission of the position messages. The position messages shall be recorded in a secure manner and kept for a period of three years.

2. Transmission by the vessel in the event of breakdown of the VMS

The master shall ensure at all times that the VMS of his vessel is fully operational and that the position messages are correctly transmitted to the FMC of the flag State.

In the event of breakdown, the VMS of the vessel shall be repaired or replaced within 10 days. After that period, the vessel shall no longer be authorised to fish in the Gabonese zone.

Vessels fishing in the Gabonese zone with a defective VMS must communicate their position messages by e-mail, radio or fax to the FMC of the flag State, at least every four hours, and must provide all the compulsory information.

3. Secure communication of the position messages to Gabon

The FMC of the flag State shall automatically send the position messages of the vessels concerned to the FMC of Gabon. The FMCs of the flag State and Gabon shall exchange their contact e-mail addresses and inform each other without delay of any change to those addresses.

The transmission of position messages between the FMCs of the flag State and Gabon shall be carried out electronically using a secure communication system.

The FMC of Gabon shall inform the FMC of the flag State and the EU of any interruption in the reception of consecutive position messages from a vessel holding a licence, where the vessel concerned has not notified its exit from the zone.

4. Malfunction of the communication system

Gabon shall ensure the compatibility of its electronic equipment with that of the FMC of the flag State and inform the EU immediately of any malfunction as regards the communication and reception of position messages with a view to finding a technical solution as soon as possible. The Joint Committee shall deal with any possible dispute arising.

The master shall be considered responsible for any proven tampering with a vessel's VMS aimed at disturbing its operation or falsifying its position messages. Any infringements shall be subject to the penalties provided for by the Gabonese legislation in force.

5. Revision of the frequency of position messages

On the basis of documentary evidence proving an infringement, Gabon may ask the FMC of the flag State, copying in the EU, to reduce the interval for sending position messages from a vessel to every thirty minutes for a set period of investigation. This documentary evidence must be sent without delay by Gabon to the FMC of the flag State and the EU. The FMC of the flag State shall immediately send the position messages to Gabon at the new frequency.

At the end of the set investigation period, Gabon shall immediately inform the FMC of the flag State and the EU and subsequently inform them of any follow-up.

CHAPTER VIII

INFRINGEMENTS

1. Handling of infringements

Any infringement committed by an EU vessel holding a licence in accordance with the provisions of this Annex must be referred to in an inspection report. That report shall be sent to the EU and the flag State as soon as possible.

The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of an infringement. The master of the vessel shall cooperate while the inspection procedure is being carried out.

2. Detention of a vessel – Information meeting

Where permitted under the Gabonese legislation in force regarding the infringement, any EU vessel having committed an infringement may be forced to cease its fishing activity and, where the vessel is at sea, to return to a Gabonese port.

Gabon shall notify the EU within 24 hours of any detention of an EU vessel holding a licence. That notification shall be accompanied by documentary evidence of the infringement.

Before taking any measure against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, Gabon shall organise, at the request of the EU, within one working day of notification of the detention of the vessel, an information meeting to clarify the facts which have led to the vessel being detained and to explain what further action may be taken. A representative of the flag State of the vessel may attend that information meeting.

3. Penalties for infringements - Compromise procedure

The penalty for the infringement shall be set by Gabon according to the provisions of the national legislation in force.

Where settling the infringement involves legal proceedings, before these are launched, and provided that the infringement does not involve a criminal act, a compromise procedure shall be undertaken between Gabon and the EU in order to determine the terms and level of the penalty. A representative of the flag State of the vessel and of the EU may participate in that compromise procedure. The compromise procedure shall finish at the latest 3 days after the notification of the detention of the vessel.

4. Legal proceedings – Bank security

If the compromise procedure fails and the infringement is brought before the competent court, the owner of the vessel which committed the infringement shall deposit a bank security at a bank designated by Gabon, the amount of which, as set by Gabon, shall cover the costs linked to the detention of the vessel, the estimated fine and any compensation. The bank security may not be recovered until the legal proceedings have been concluded.

The bank security shall be released and returned to the vessel owner without delay after the judgment has been delivered:

- (a) in full, if no penalty has been imposed;
- (b) for the amount of the remaining balance, if the penalty is a fine which is lower than the amount of the bank security.

Gabon shall inform the EU of the outcome of the legal proceedings within 8 days of the judgment being delivered.

5. Release of the vessel and the crew

The vessel and its crew shall be authorised to leave the port once the penalty has been paid in a compromise procedure, or once the bank security has been deposited.

CHAPTER IX

SIGNING-ON OF SEAMEN

1. Owners of tuna seiners and pole-and-line tuna vessels shall employ ACP nationals, subject to the following conditions and limits:
 - for the fleet of tuna seiners, at least 20 % of the seamen signed on during the tuna-fishing season in the fishing zone of third countries shall be of ACP origin;
 - for the fleet of pole-and-line tuna vessels, at least 20 % of the seamen signed on during the tuna-fishing season in the fishing zone of third countries shall be of ACP origin.
2. Vessel owners shall endeavour to sign on Gabonese seamen.
3. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on by EU vessels. This concerns in particular the freedom of association and the effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.

4. The employment contracts of seamen from the ACP countries shall be drawn up between the vessel owners' representative(s) and the seamen and/or their trade unions or representatives. A copy shall be given to the signatories. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance.
5. The wages of the seamen from the ACP countries shall be paid by the vessel owners. They shall be fixed, before licences are issued, by mutual agreement among the vessel owners or their representatives. However, the wage conditions granted to local seamen shall not be lower than those applied to Gabonese crews and shall under no circumstances be below ILO standards.
6. All seamen employed aboard EU vessels shall report to the master of the vessel designated on the day before their proposed embarkation date. Where a seaman fails to report at the date and time agreed for embarkation, vessel owners shall be automatically absolved of their obligation to take the seaman on board.

CHAPTER X

OBSERVERS

1. Observation of fishing activities

Vessels holding a licence shall be subject to a scheme for observing their fishing activities carried out within the framework of the Agreement.

This observation scheme shall conform to the provisions provided for in the recommendations adopted by ICCAT (International Commission for the Conservation of Atlantic Tunas).

2. Designated vessels and observers

Gabon shall designate the EU vessels which must allow an observer to embark and the observer assigned to them at the latest 15 days before the date provided for the embarkation of the observer. EU vessels shall, at the request of the Gabonese authorities, take on board one observer in order to reach the cover rate of 25 % of licensed vessels.

When the licence is issued, Gabon shall inform the EU and the vessel owner, or his consignee, of the designated vessels and observers and the times at which the observer will be present on board each vessel. Gabon shall immediately inform the EU and the vessel owner or his consignee of any change in the designated vessels and observers.

Gabon shall endeavour not to designate observers for vessels which already have an observer on board, or which are already formally obliged to allow an observer to embark during the fishing season in question as part of their activities in fishing zones other than the Gabonese zone.

The observers shall not spend more time on board the vessel than is necessary to carry out their duties.

3. Flat-rate financial contribution

At the time the annual flat-rate fee is paid, the vessel owner shall also pay Gabon a flat-rate sum of EUR 200 per year for each vessel.

4. Observer's salary

The salary and social contributions of the observer shall be borne by Gabon.

5. Embarkation conditions

The embarkation conditions for the observer, in particular the duration of presence on board, shall be defined by mutual agreement between the vessel owner or his consignee and Gabon.

Observers shall be treated on board as officers. However, receiving the observer on board shall take into account the technical structure of the vessel.

The vessel owner shall bear the costs of providing accommodation and food for the observer on board.

The master shall take all the measures for which he is responsible to guarantee the physical safety and general wellbeing of the observer.

Observers shall be offered every facility needed to carry out their duties. They shall have access to means of communication and to documents relating to the fishing activities of the vessel, in particular the fishing logbook and navigation log, and the parts of the vessel directly linked to their duties.

6. Observer's obligations

Whilst they are on board observers shall:

- (a) take all appropriate measures so as not to interrupt or hinder fishing operations;
- (b) respect on-board property and equipment;
- (c) respect the confidential nature of any document belonging to the vessel.

7. Embarkation and landing of observers

The observer shall embark in a port chosen by the vessel owner.

The vessel owner or his representative shall notify Gabon, with a notice period of 10 days before the embarkation, of the date, time and port of embarkation of the observer. If the observer is embarked in a foreign country, their travel costs to the port of embarkation shall be borne by the vessel owner.

If the observer does not arrive to embark within 12 hours of the date and time set, the vessel owner shall be automatically discharged from his obligation to allow the observer to embark. The vessel shall be free to leave the port and start fishing operations.

Where the observer is not disembarked in a Gabonese port, the vessel owner shall bear the costs of repatriation of the observer to Gabon as soon as possible.

8. Observer's obligations

The observer shall carry out the following duties:

- (a) observe the fishing activities of the vessel;
- (b) verify the position of the vessel during fisheries operations;
- (c) perform biological sampling in the context of a scientific programme;
- (d) note the fishing gear used;
- (e) verify the catch data for the Gabonese zone recorded in the logbook;
- (f) verify the percentages of by-catch and estimate the discarded catch;
- (g) communicate observations by radio, fax or e-mail at least once a week while the vessel is fishing in the Gabonese zone, including the quantity of catch and by-catch on board.

9. Observer's report

Before leaving the vessel, the observer shall submit a report of his observations to the captain of the vessel. The master of the vessel shall have the right to make comments in the observer's report. The report shall be signed by the observer and the master. The master shall receive a copy of the observer's report.

The observer shall send his report to Gabon, which shall send a copy of it to the EU within 8 days of the observer's disembarkation.

Appendices to this Annex

1. Appendix 1 – Licence application form
2. Appendix 2 – Technical sheet
3. Appendix 3 – Fishing logbook
4. Appendix 4 – Format of VMS position message
5. Appendix 5 – Limits of the Gabonese fishing zone
6. Appendix 6 – Electronic reporting of fishing operations

**GABON - EUROPEAN UNION FISHING AGREEMENT
FISHING LICENCE APPLICATION FORM**

I - APPLICANT

1. Name of vessel owner:
2. Address of vessel owner:
2. Name of the vessel owner's association or agent:
3. Address of the vessel owner's association or agent:
4. Telephone:..... Fax:..... E-mail:.....
5. Name of master: Nationality: E-mail:.....

II – VESSEL AND IDENTIFICATION

1. Vessel name:
2. Flag State:
3. External registration number:
4. Port of registry: MMSI: IMO Number:.....
5. Date on which current flag was acquired:/...../..... Previous flag, if any:
6. Year and place of construction:/...../..... in Radio call sign:
7. Call frequency: Satellite telephone number:
8. Hull construction material: Steel Wood Polyester Other

III - TECHNICAL CHARACTERISTICS AND EQUIPMENT

1. Overall length: Width:
2. Tonnage (expressed in GT): Net tonnage:
3. Power of main engine in kW: Make: Type:
4. Vessel Type: Tuna seiner Pole-and-line vessel
5. Fishing gear types:
6. Fishing zones: Target species:
7. Designated port for landing operations:
8. Crew complement:
9. Method of preservation on board: Cooling Refrigeration Mixed Freezing
10. Freezing capacity in tonnes/24 hours: Hold capacity: Number:
11. VMS transponder:
Manufacturer: Model: Serial No.:
- Software version: Satellite operator:.....

I, the undersigned, certify that the information provided in this application is true and given in good faith.

Done at,/...../.....

Name of applicant

Technical sheet

Fishing zone:	
Beyond 12 nautical miles from the baseline, excluding zones closed to shipping and fishing provided for under Appendix 5.	
Authorised categories:	
Tuna seiners Pole-and-line tuna vessels	
By-catch:	
Compliance with ICCAT and FAO recommendations.	
Fees and tonnage:	
Fee per tonne caught	Tuna seiners and pole-and-line vessels - 1st year: EUR 55 per tonne - 2nd and 3rd years: EUR 65 per tonne
Annual national fee:	Tuna seiners and pole-and-line vessels EUR 13 750 per year, for the duration of the Protocol
Number of vessels authorised to fish	27 tuna seiners 8 pole-and-line vessels
Other:	
Observers on 25 % of vessels authorised to fish – flat-rate financial contribution: EUR 200 per vessel per year. Seamen: 20 % of seamen signed on are ACP nationals.	

Fishing logbook

ICCAT LOGBOOK FOR TUNA FISHERY

Vessel name:	Gross tonnage:	Vessel DEPARTED:	Month	Day	Year	Port	
Flag country:	Capacity – (MT):						
Registration No:	Master:	Vessel RETURNED:					
Vessel owner:	No of crew:						
Address:	Reporting date:	No of days at sea:		No of fishing days:		Trip number:	
	(Reported by):			No of sets made:			

Date		Sector		Catches																					
Month	Day	Latitude N/S	Longitude E/W	Surface water temp (°C)	Fishing effort No of hooks used	Bluefin tuna		Yellowfin tuna		(Bigeye tuna)		(Albacore)		(Swordfish)		(Strip marlin) (White marlin)		(Black marlin)		(Sailfish)		(Skipjack)		(Miscellaneous)	
						Thunnus thynnus or maccoyii	Weight kg	Thunnus albacares	kg	Thunnus obesus	Kg	Thunnus alalunga	kg	Xiphias gladius	kg	Tetrapturus audax or albidus	kg	Makaira indica	kg	Istiophorus albicans or platypterus	kg	Katsuwonus pelamis	kg		
LANDING WEIGHT (IN KG)																									

Notes

1 – Use one sheet per month and one line per day.

2 - At the end of each trip, forward a copy of the log to your correspondent or to the ICCAT, Calle Corazón de María, 8, 28002 Madrid, Spain

3 – 'Day' refers to the day you set the line.

4 - Fishing area refers to the position of the vessel. Round off minutes and record degree of latitude and longitude. Be sure to record N/S and E/W.

5 - The last line (landing weight) should be completed only at Actual weight at the time of unloading should be recorded.

6 - All information reported herein will be kept strictly confidential.

COMMUNICATION OF VMS MESSAGES TO GABON

POSITION REPORT

Data Element	Code	Mandatory or optional	Remarks
Start record	SR	M	System detail indicating start of record
Addressee	AD	M	Message detail – Addressee Alpha-3 country code (ISO-3166)
From	FR	M	Message detail – Sender Alpha-3 country code (ISO-3166)
Flag State	FS	M	Message detail – Flag State Alpha-3 code (ISO-3166)
Type of message	TM	M	Message detail – Message type (ENT, POS, EXI)
Radio call sign (IRCS)	RC	M	Vessel detail – Vessel international radio call sign (IRCS)
Contracting Party internal reference number	IR	O	Vessel detail – Unique contracting party number Alpha-3 code (ISO-3166) followed by number
External registration number	XR	M	Vessel detail – Number on side of vessel (ISO 8859.1)
Latitude	LT	M	Vessel position detail – Position in degrees and decimal degrees N/S DD.ddd (WGS84)
Longitude	LG	M	Vessel position detail – Position in degrees and decimal degrees E/W DD.ddd (WGS84)
Course	CO	M	Vessel course 360° scale
Speed	SP	M	Vessel speed in tenths of knots

Data Element	Code	Mandatory or optional	Remarks
Date	DA	M	Vessel position detail – Date of record of UTC position (YYYYMMDD)
Time	TI	M	Vessel position detail – Time of record of UTC position (HHMM)
End record	ER	M	System detail indicating end of record

Each data transmission is structured as follows:

- (1) Characters used must comply with the ISO 8859.1 standard.
- (2) A double slash (//) and the characters 'SR' indicate the start of a message.
- (3) Each data element is identified by its code and separated from the other data elements by a double slash (/).
- (4) A single slash (/) separates the field code and the data.
- (5) The 'ER' code followed by a double slash (//) indicates the end of the message.
- (6) The optional data elements must be inserted between the start and the end of the message.

LIMITS OF THE GABONESE FISHING ZONE
COORDINATES OF THE FISHING ZONE

The competent Gabonese authorities shall notify the competent EU services of the geographical coordinates of the Gabonese baseline, Gabonese fishing zone and zones closed to shipping and fishing. The Gabonese authorities shall also undertake to communicate any changes to those coordinates at least one month in advance.

- (a) Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

Reference: Annex to the Protocol to the EU/Gabon Fisheries Agreement

General provisions

- (1) All EU fishing vessels must be equipped with an electronic system, hereinafter referred to as an 'ERS', capable of recording and transmitting data concerning the vessel's fishing activities, hereinafter referred to as 'ERS data', when the vessel is operating in Gabonese waters.
- (2) An EU vessel that is not equipped with an ERS, or whose ERS is not working, is not authorised to enter Gabonese waters in order to engage in fishing activities.
- (3) ERS data shall be transmitted in accordance with the procedures of the vessel's flag State, i.e. they shall firstly be sent to the Fisheries Monitoring Centre (hereinafter: FMC) of the flag State which will make them automatically available to the Gabonese FMC.

- (4) The flag State and Gabon shall ensure that their FMCs have the necessary IT equipment and software to automatically transmit ERS data in xml format, [available via http://ec.europa.eu/cfp/control/codes/index_en.htm] and shall have a backup procedure in place capable of saving and storing ERS data in a format which will be computer-readable for at least 3 years.
- (5) Any change or update to this format shall be identified and dated and must be operational six months after its introduction.
- (6) ERS data must be transmitted using the electronic means of communication operated by the European Commission on behalf of the EU, referred to as the DEH (Data Exchange Highway).
- (7) The flag State and Gabon shall each designate an ERS correspondent who will act as the point of contact.
 - (a) ERS correspondents shall be designated for a minimum period of six months.
 - (b) The FMCs of the flag State and Gabon shall notify one another of the contact details (name, address, telephone number, fax, e-mail address) of their ERS correspondent, before the supplier starts production of the ERS.
 - (c) Any changes to the contact details of the ERS correspondent must be notified immediately.

Producing and communicating ERS data

- (8) EU fishing vessels must:
- (a) communicate on a daily basis ERS data for each day spent in Gabonese waters;
 - (b) record the quantity of each species caught and kept on board as target species or by-catch, or discarded, for each fishing operation;
 - (c) declare the bad catch of each species specified in the fishing authorisation issued by Gabon;
 - (d) identify each species by its FAO 3-alpha code;
 - (e) express quantities in kilograms of live weight or, where necessary, the number of individual fish;
 - (f) record by species in the ERS data the quantity transhipped and/or unloaded;
 - (g) record in the ERS data, every time Gabonese waters are entered (COE message) or exited (COX message), a specific message containing the quantities held on board at the time of passing for each species specified in the fishing authorisation issued by Gabon;

- (h) transmit ERS data on a daily basis to the FMC of the flag State, according to the format referred to in paragraph 3 above, by 23:59 UTC at the latest.
- (9) The master is responsible for the accuracy of the ERS data recorded and sent.
- (10) The FMC of the flag State shall send the ERS data automatically and without delay to the Gabonese FMC.
- (11) The Gabonese FMC shall confirm that it has received the ERS data by means of a return message and shall handle all ERS data confidentially.

Failure of the on-board ERS and/or transmission of ERS data between the vessel and the FMC of the flag State

- (12) The flag State shall immediately inform the master and/or owner of a vessel flying its flag, or his representative, of any technical failure of the ERS installed on board or breakdown in transmission of ERS data between the vessel and the FMC of the flag State.
- (13) The flag State shall inform Gabon of the failure detected and the corrective measures taken.

- (14) In the event of a breakdown in the on-board ERS, the master and/or owner shall ensure the ERS is repaired or replaced within 10 days. If the vessel makes a call at a port within those 10 days, it may only resume fishing activity in Gabonese waters once its ERS is in perfect working order, unless Gabon authorises otherwise.
- (15) Following a technical failure in its ERS, a fishing vessel may not leave port until:
- (a) its ERS is in working order once again, to the satisfaction of the flag State and Gabon,
or
 - (b) it receives authorisation from the flag State. In the latter case, the flag State shall inform Gabon of its decision before the vessel leaves.
- (16) Any EU vessels operating in Gabonese waters with a faulty ERS must transmit all ERS data on a daily basis and by 23:59 UTC at the latest to the FMC of the flag State by any other available means of electronic communication accessible by the Gabonese FMC.
- (17) ERS data which could not be made available to Gabon via the ERS owing to the failure referred to in paragraph 10 shall be transmitted by the FMC of the flag State to the Gabonese FMC by another mutually agreed form of electronic communication. This alternative transmission shall be considered priority as it will not be possible to comply with the transmission deadlines usually applicable.

(18) If the Gabonese FMC does not receive ERS data from a vessel for 3 consecutive days, Gabon may instruct a vessel to immediately call at a port of Gabon's choosing in order to investigate.

FMC failure – ERS data not received by Gabonese FMC

(19) In the event that ERS data is not received by an FMC, its ERS correspondent shall immediately inform the ERS correspondent for the other FMC and, if necessary, work together in order to resolve the problem.

(20) Before the ERS becomes operational, the FMC of the flag State and the Gabonese FMC shall mutually agree on the alternative means of electronic communication to be used in order to transmit ERS data in the event of an FMC failure, and shall immediately inform one another of any changes thereto.

(21) If the Gabonese FMC reports that ERS data has not been received, the FMC of the flag State shall identify the causes of the problem and take appropriate measures in order to resolve the problem. The FMC of the flag State shall inform the Gabonese FMC and the EU of the outcome of the measures taken within 24 hours after recognising the failure.

(22) If more than 24 hours is required in order to resolve the problem, the FMC of the flag State shall immediately transmit the missing ERS data to the Gabonese FMC via one of the alternative means of electronic communication referred to in point 17.

(23) Gabon shall inform its competent monitoring services (MCS) so that EU vessels are not considered by the Gabonese FMC as being in violation of their obligations for not transmitting ERS data, owing to a failure in one of the FMCs.

FMC maintenance

(24) Planned maintenance of an FMC (maintenance programme) which may affect the exchange of ERS data must be notified at least 72 hours in advance to the other FMC, indicating, where possible, the date and duration of the maintenance work. Information about unplanned maintenance work shall be sent to the other FMC as soon as possible.

(25) During the maintenance work, the provision of ERS data may be put on hold until the system is operational again. The relevant ERS data shall be made available immediately after the maintenance work has been completed.

(26) If the maintenance work takes more than 24 hours, ERS data shall be sent to the other FMC using one of the alternative means of electronic communication referred to in point 17.

(27) Gabon shall inform its competent monitoring services (MCS) so that EU vessels are not considered by the Gabonese FMC as being in violation of their obligations for not transmitting ERS data, owing to the maintenance of an FMC.
