



BURKINA FASO



REPUBLIC OF GHANA

**Code of Conduct
for the sustainable and
equitable management of
shared water resources of the
Volta Basin**

Formulated with the Technical support from:



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PREAMBLE

The Governments of Burkina Faso and the Republic of Ghana

AWARE of the common interest of both States in the management of the shared water resources of the Volta Basin;

CONSIDERING the economic, strategic and environmental challenges of the Volta Basin for the six riparian countries namely, Benin, Burkina Faso, Cote d'Ivoire, Ghana, Mali and Togo which depend mainly on its resources for their economic and social development;

CONCERNED about the vulnerability of the Basin and the conflicts likely to arise from the management of any natural resource shared between two or more countries;

AWARE of the need for a concerted, interdependent and integrated management of the resources of the Basin and also the need for the harmonisation of policies and strategies and persuaded that it is the only way to sustainability of the resources and their use;

ACKNOWLEDGING that coordinated management approach of the shared ecosystems offers best results environmentally and generates economic benefits through fundamental services provided by ecosystems;

ACKNOWLEDGING that cooperation and participatory action promote peaceful relationships between the States and among people;

NOTING positively the efforts undertaken by the main stakeholders who are the States, international organisations, civil society organizations and the local communities through their several initiatives to ensure a sustainable management of the Basin;

MINDFUL of the multilateral and bilateral initiatives to provide the Basin with a legal management framework, namely the Volta Basin Technical Committee (VBTC) and the Burkina Faso – Ghana Joint Ministerial Declaration on the improved management of the natural resources of the Basin of April 13, 2004 and the setting up of the Burkina Faso – Ghana Joint Technical Committee on the Integrated Water Resources Management (JTC-IWRM) on December 6, 2005.

BEARING in mind the various international commitments of both States as part of the poverty reduction framework, in particular the Millennium Development Goals (MDGs) and the New

Partnership for African Development (NEPAD) initiatives;

CONVINCED that a good cooperation in the framework of the Basin is likely to strengthen bilateral cooperation in other fields;

CONVINCED that these bilateral initiatives need to be reinforced by a non conventional but concerted tool which establishes the institutional and normative frameworks and which can contribute to achieve the objectives of a sustainable management of the Basin;

CONSIIOUS of the necessity to respect the general principles of water law resulting from international conventions and customary law, inspired by the law on international river courses

DESIRIOUS of reinforcing cooperation among the riparian States of the Basin pursuant to the United Nations Charter and the Declaration on principles of international law on friendly relations and cooperation among States;

DESIRIUOS of providing sustainable and evolving frameworks to the common interest of the States and guaranteeing each user and each State, a reasonable and equitable advantage of use of water in conformity with the principle relating to shared water resources

AGREE to adopt this Code of Conduct for the integrated, sustainable and equitable management of water resources of the Volta Basin hereinafter referred to as the Code of Conduct.

PART I: GENERAL PROVISIONS

Article 1. Definition and Use of Terms

Basin - refers to the Volta Basin;

States - refers to Burkina Faso and Ghana;

Other basin States - refers to the other four States of the basin, namely Benin, Côte d'Ivoire, Mali and Togo;

Riparian States - refers to the six States of the Volta Basin, namely Benin, Burkina

Faso, Côte d'Ivoire, Ghana, Mali and Togo;

Ecosystem: - refer to a dynamic complex constituted by communities of plants, animals and micro-organisms and their non living elements that by their interaction form a functional unit;

Environmental flow: - refers to the water regime provided within a river, wetland or coastal zone to maintain ecosystems and their benefits where there are competing water uses and where flows are regulated.

Natural resources: refer to naturally occurring substances including soil, water, flora and fauna, which are considered valuable in their relatively unmodified form.

Article 2. Aims

The Code of Conduct defines the management principles for the shared water resources of the Volta Basin between Burkina Faso and Ghana which shall at all times guide both States for their interests, cooperation and good neighbourliness.

Article 3 Objective

The Code of Conduct, through its principles, guidelines, joint activities and implementation mechanisms, aims at promoting an integrated, sustainable and equitable management of the water resources of the Volta Basin based on a participatory approach which involves all the stakeholders, mainly the local communities.

An integrated, sustainable and equitable management of the water resources of the Basin necessarily takes into account the socio-economic needs, food security and poverty reduction dimensions through the preservation of services provided by the ecosystems and the improvement of the local communities' living conditions.

Article 4. Scope of Application:

The Code of Conduct applies to the shared water resources of the Volta Basin within the territories of the signatory States.

Article 5. Legal nature

The Code of Conduct is a non legally binding instrument. It is non conventional but a concerted tool issued from the agreement between the States to achieve integrated, sustainable and equitable management of the water resources of the Volta Basin.

PART II: MANAGEMENT PRINCIPLES FOR THE SHARED WATER RESOURCES OF THE VOLTA BASIN

Article 6. Common heritage principle

(i) The water resources of the Basin constitute a common heritage for both States and their respective local communities which must be adequately managed and safeguarded.

(ii) It shall therefore be the duty of States and local communities to preserve this heritage particularly the fragile ecosystems for present and future generations.

Article 7. Principle of Non detrimental use of the national territory

In accordance with the United Nations Charter and principles of International Law, the States shall have the right to use the water resources following their development policies, and to ensure that activities carried out within their jurisdiction are not detrimental to the interests of the other States' territories.

Article 8. Principle of sustainable development

(i) In the process of the management of the water resources of the Basin, States have to balance the use for economic needs with environment protection and social development..

(ii) Preservation of ecosystem services is a prerequisite to economic development and social welfare of the people of the basin.

Article 9. Principle of conservation and sustainable use

(i) The States shall encourage the conservation and sound use of the water resources of the Basin to ensuring sustainability for the benefit of present and future generations.

(ii) Further, the States shall ensure the security of the water resources of the Basin for the local communities.

Article 10. Cooperation principle

(i) The States shall encourage and promote cooperation on all issues of mutual interests in all areas, at all levels to avoid delays or unjustified blockages in the implementation of country specific/joint projects or programmes on conservation or sustainable use of the resources.

(ii) To optimize the management of the Basin's water resources, States shall encourage transboundary cooperation between the border administrative authorities on the one hand, and on the other, between

the trans-boarder local communities. The administrative authorities and the local communities at the border shall be encouraged to set up structures or mechanisms, agreements such as protocols and Memoranda of Understanding,.

Article 11. Principle of equitable use

The States shall make equitable use of the water resources of the Basin taking into consideration the legitimate interests and needs of the other riparian States of the Basin.

Article 12. Pollution prevention and polluter pays principles

(i) The States shall take all necessary measures to prevent, stop or minimize any possible pollution factors, which may endanger people, the environment and the water resources of the Basin.

(ii) If the Basin's water resources are severely affected by pollution, the States shall ensure that the concerned polluter bear the costs.

Article 13. Precautionary principle

In the event of serious or irreversible damage to the Basin's water resources, the lack of scientifically proved evidence cannot be used as an excuse to delay taking efficient measures which prevent the further degradation of these resources.

Article 14. Principle of benefit sharing

The States shall share together with the local population of the Basin, the benefits derived from the sustainable use and conservation of the water resources of the Basin.

Article 15. Principle of Participation

(i) The States shall involve stakeholders such as civil society groups, private sector, NGOs, community based organizations, traditional and customary authorities, women and youth groups to play a key role in the management of the water resources of the Basin owing to their presence on the ground and their good understanding of the local situation.

(ii) The states shall encourage and promote development of partnership and effective involvement of these organizations in designing and implementation of projects and programmes for a sustainable and equitable management of the Basin's water resources.

Article 16. Principle of mainstreaming women and youth

The states shall give priority to the participation of women and youth in this process of integrated, sustainable and equitable management of the water resources of the Basin.

Article 17. Principle of information, education and sensitization of the public

(i) The States shall ensure on a regular basis that the public has access to available data and information on water resources of the Basin and also to measures taken or planned for its conservation and sustainable use in accordance with appropriate modalities.

(ii) The States shall promote public education and sensitization on the issue of water resources to raise awareness of the public on the importance of sustainable use and conservation of the water resources.

Article 18. Principle of Subsidiarity

i) The States shall design policies on the management of the water resources of the basin and implement policies within the appropriate decision making level

ii) The States shall particularly promote a decentralized management of the water resources by recognizing the key role that local institutions have in the conception and implementation of sustainable policies, development programmes or projects in the Basin.

Article 19. Principle of environmental impact assessment

i) Prior to undertaking any activity on shared water resources which may bear significant negative effects on the environment, the States must assess the impact on the environment and people.

ii) The States shall encourage the sharing of the results of environmental impact assessments at appropriate levels and times.

Article 20. Principle of mutual information sharing

The States shall inform each other on a regular basis with the greatest transparency, on issues and initiatives of mutual interest in relation to the basin.

Article 21. Notification Principle

i) Whenever a State undertakes actions or takes measures likely to harm the environment or the water resources of the Basin States, this should be notified ahead of time.

ii) The States shall inform each other and their respective local populations concerned as quickly as possible of any emergency situation which may suddenly cause harmful damage to the shared water resources of the Basin and should offer mutual assistance in this regard.

Article 22. Consultations and negotiations principle

(i) When the notification gives rise to a conflict, the States shall consult or negotiate to come to an agreement.

(ii) During consultations or negotiations, the States shall refrain from undertaking any initiative likely to aggravate the situation.

(iii) Consultations and negotiations shall be conducted in accordance with the principles of International Law.

Article 23. Compensation principle

The States shall facilitate the compensation of people who are victims of damage resulting from the management of the shared water resources of the Basin.

Article 24. Principles of Integrated Water Resources Management

The States shall apply the principles of Integrated Water Resources Management (IWRM) in the management process of the water resources of the Basin as follows:

- (i) Fresh water is a finite and vulnerable resource, which is vital to life, development and the environment.
- (ii) Development and management of water resources should follow a participatory approach, which involves users and decision makers at all levels.
- (iii) Women play a key and strategic role in the supply, management and conservation of water.
- (iv) Water has an economic and social value in all its uses and should be acknowledged as such.

Article 25. Principle of conflicting uses

- (i) In the event of conflicting uses in a context of water shortage, the States shall pay particular attention to the basic human needs.
- (ii) No State shall be denied sound and equitable use of the water just under the pretext of preserving the water for future use by another State.

Article 26. Principle of preservation of the quantity and quality of water resources

The States agree to safeguard and improve both quantity and quality of water resources of the Basin.

Article 27. Principle of management by hydrographical basin

The States shall adopt and implement an approach based on managing the hydrographical basin as a unit, which is the most appropriate framework for planning, mobilisation, management and protection of water resources.

Article 28. Principle of prevention of detrimental situations

The States shall adopt relevant measures to prevent human-driven and/or reduce the impact of natural situations that are likely to cause harm to the States, the Basin and/or the people. Such detrimental situations may include water borne diseases, silting up, erosion, and intrusion of salt water, drought or desertification.

Article 29. Principle of controlled introduction of new and foreign aquatic species

The States shall adopt all necessary measures to avoid introduction into the Basin, new and foreign species which may cause prejudice to the ecosystem and eventually harm the States.

Article 30. Principle of priority conservation of aquatic ecosystems

The States shall give priority to the conservation of the biodiversity of aquatic ecosystems with regard to its role in the regulation and renewal of water resources, and to its social, economic and cultural dimensions.

PART III: GUIDELINES

Article 31. Maintaining an environmental flow

In the management of the water resources of the basin, an environmental flow should be maintained for the conservation of aquatic ecosystems.

Article 32. Adoption of integrated strategies and efficient internal measures

The States shall make all efforts to adopt integrated policies and strategies, as well as efficient internal measures in order to achieve a sustainable development, conservation and use of the shared water resources of the Basin.

Article 33. Harmonisation of policies, strategies and legislative frames

The States shall ensure the harmonisation of their policies, strategies and legislation in relevant areas of water resource management

Article 34. Promotion of good environmental practices

The State shall encourage the use of good environmental and traditional practices and local know-how in all areas of the sustainable management of the water resources of the Basin.

Article 35. Towards a multilateral convention on the Basin

(i) In the implementation of the Code of Conduct, the States shall work with other riparian states towards the adoption of a multilateral conventional tool in order to coordinate all initiatives pertaining to the Basin.

(ii) In this regard, the States shall with other riparian states contemplate creating institutional units such as commissions, authorities or organisations of the Basin to coordinate all initiatives related to the sustainable conservation and use of water resources in the Basin.

PART IV: JOINT ACTIONS

Article 36. Policies and strategies of sustainable conservation and use

The States shall, depending on the circumstances and means, jointly design and implement strategies, policies, plans, programmes, and development projects for a sustainable conservation and use of water resources in the Basin.

Article 37. Collection and sharing of data and information

(i) The States shall, through their national institutions facilitate joint campaigns for data collection on all the water resources of the basin.

(ii) They shall harmonize data collection methods and techniques, processing and storage.

(iii) They shall agree to regularly communicate and share the totality of the information, appropriate scientific and technological data on the water resources of the Basin.

(iv) They shall encourage the creation of common databases on the water resources of the Basin.

Article 38. Joint Studies and assessment

When a conflict arises in the use of the water resources of the Basin, the States should carry out joint surveys and assessments that will allow for appropriate and satisfactory solutions to these problems.

Article 39. Sensitisation of the local communities

The States shall encourage and facilitate the sensitization of local communities so as to give them a sense of responsibility and to raise their awareness for improved protection and conservation of the water resources of the Basin.

Article 40. Capacity building

The States shall design and implement capacity building programmes for all stakeholders involved in the sustainable management of the shared water resources of the Basin.

Article 41. Joint scientific research

In view of the essential role of scientific research, the States shall encourage research institutions to undertake joint research programmes on the sustainable management and use of water resources.

Article 42. Control and reduction of water pollution originating from waste

(i) The States shall undertake actions to control and reduce water pollution originating from wastes, and if applicable, take measures for an ecologically sound management of wastes, which will ensure the protection of human health and of the environment against adverse effects that these wastes could have.

(ii) The States should ban the importation of foreign waste into the Basin.

Article 43. Emergency plans

The States shall develop and implement joint emergency preparedness plans to address unforeseen situations which may be injurious to the people, environment and the water resources of the Basin..

Article 44. Water resources audits and monitoring

(i) The States shall promote a better knowledge of the water resources by taking stock of the situation through assessments of the water resources of the Basin.

(ii) The States shall set up a mechanism to regularly monitor the quantity and quality of the water resources as well climatic data of the Basin.

Article 45. Control of siltation and protection of the river banks

(i) The States shall, in close collaboration with the local communities, implement programmes to control desertification, erosion and the siltation of the River Basin.

(ii) They shall also ensure the protection and restoration of river banks.

Article 46. Control of water-related diseases

The States shall develop and implement programmes and strategies to prevent and eradicate water-related diseases.

Article 47. Warning systems

The States agree to put in place early warning systems to prevent situations of natural or human occurrences that can cause damage to life, property, water resources and the environment.

Article 48. Control of invasive aquatic species

The States shall adopt all relevant measures to control invasive aquatic flora and fauna that adversely affect the ecosystem of the basin.

Article 49. Conservation of aquatic biodiversity

(i) For a sustainable use and better conservation, the States shall identify, regularly carry out inventory and monitor aquatic biodiversity and take appropriate measures for their conservation, in particular through protected areas.

(ii) Particular attention shall be paid to aquatic endangered species, and to those offering more potential for a sustainable use.

Article 50 Soil conservation

The States shall undertake measures for the protection, conservation and restoration of soils to ensure sustainable use of the land and water resources.

PART V: INSTITUTIONAL ARRANGEMENTS

Article 51. The Consultative Commission

There shall be established a Consultative Commission for the implementation of the Code of Conduct, hereinafter referred to as the “Consultative Commission”

Article 52. Mission of the Consultative Commission

(i) The Consultative Commission shall be responsible for the monitoring and coordinating the implementation of the Code of Conduct to achieve a sustainable and equitable management of water resources of the Volta Basin;

(ii) Pursuant to this objective, it shall make recommendations for the implementation of the Code of Conduct;

(iii) The States shall refer to it in the event of differences on the interpretation or application of the Code of Conduct.

Article 53. Composition of the Consultative Commission

The Consultative Commission shall include, among others, government representatives, local governments, extended to civil society organisations, grassroots communities, and private sector with equal representation.

Article 54. Composition, Functions and Operational Rules of the Consultative Commission

Addendum to be developed by the Burkina Faso-Ghana Joint Technical Committee on IWRM to address the detailed composition, functions and operational rules of the Consultative Commission, including the establishment and functions of a Secretariat to implement the Code of Conduct.

PART VI: DISPUTE RESOLUTION

Article 55. Peaceful Resolution of Disputes

(i) Pursuant to the United Nations Charter, the African Union's Constitutive Act and the Declaration pertaining to the principles of International Law on friendly relationships and cooperation among States, the States shall peacefully settle any dispute which may arise in the process of the management of the water resources of the Basin.

(ii) Any dispute or difference arising out of or as a result of the interpretation of the provisions of the Code of Conduct, the States shall refer to the Consultative Commission in order to resolve the dispute.

(iii) If an agreement is not reached, the States, through their Ministers of Foreign Affairs, shall use diplomatic channels to come to an agreement within a reasonable time.

(iv) During the period of settlement of the dispute, the States shall refrain from any behaviour likely to deteriorate the situation or create an obstacle to the out-of-court settlement of the dispute.

PART VII: PROMOTION OF THE CODE OF CONDUCT

Article 56. Promotion of the Code of Conduct among the other Basin States

(i) The States shall promote membership of all other riparian States of the Basin to the Code of Conduct; encourage its dissemination in the educational institutions and to the local population for ownership by all the stakeholders.

(ii) They shall encourage the use of modern means of communication and to the extent possible, translation into the local languages.

PART VIII: FINAL PROVISIONS

Article 57. Membership of other riparian states

(i) Any Riparian State willing to comply with the provisions of this Code of Conduct can apply for membership.

(ii) Signatory States of the Code, by consensus, shall approve the admission of applicants.

Article 58. Amendment and Revision of the Code of conduct

- i) The Code may be amended or revised after its signature subject to mutual agreement
- ii) One State may request such an amendment or revision after 3 months prior notice.
- iii) The decision to conduct such an amendment or revision is approved by consensus by the States after consultation with the Consultative Commission.
- iv) The amended or revised Code of Conduct shall become operative following similar conditions than the original Code of Conduct.

Article 59. Date of Effectiveness

This Code of Conduct shall take effect from the date of signing by the States' Ministers in charge of Water Resources.

Done in on.....2006 in two original, one copy in English and the other in French, both texts being authentic. .

Signed for **Burkina Faso**
Minister for Agriculture, Hydraulics and Fisheries

Signed for **Republic of Ghana**
Minister for Water Resources, Works and Housing