

PROTOCOL establishing the fishing rights and financial compensation provided for in the agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde

Article 1

Pursuant to Article 2 of the Agreement, and for a period of three years from 6 September 1994, the following fishing possibilities shall be accorded:

(a) highly migratory species:

- freezer tuna seiners: 23 vessels,
- pole-and-line tuna vessels and surface longliners: 17 vessels.

(b) other species:

- bottom longliners: three vessels, each with a tonnage of less than 210 GRT.

Article 2

1. For the period referred to in Article 1, the financial compensation referred to in Article 7 of the Agreement shall be ECU 1 063 500, payable in three equal annual instalments. In the case of tuna fishing, this compensation shall cover a catch weight in waters of Cape Verde of 4 850 tonnes of tuna fished per year. If the annual amount of tuna caught by Community vessels in the waters of Cape Verde exceeds this quantity, the abovementioned compensation shall be increased by ECU 50 for each additional tonne caught.

2. The use to which this compensation is put shall be the sole responsibility of the Cape Verdean authorities.

3. The compensation shall be paid into an account opened with a financial institution or any other body designated by the Cape Verdean authorities.

Article 3

The Community shall also contribute during the period referred to in Article 1 the sum of ECU 261 900 towards the financing of a Cape Verde scientific or technical programme (equipment, infrastructure, seminars, studies, etc.) to improve information on the fishery resources within the exclusive economic zone of Cape Verde.

This sum shall be made available to the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde and paid into the bank account indicated by the Office.

Article 4

1. The two Parties agree that improving the skills and knowledge of those involved in sea fishing is a vital element in the success of their cooperation. To that end, the Community shall make it easier for nationals of Cape Verde to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. The awards may also be used in any country linked with the Community by a cooperation agreement.

2. The total cost of the awards may not exceed ECU 174 600. At the request of the Cape Verdean authorities, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries. The sum shall be payable as and when it is used.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 3, the application of this Protocol may be suspended.

Article 6

The Annex to the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde is hereby repealed and replaced by the Annex to this Protocol.

Article 7

This Protocol with its Annex shall enter into force on the date of its signature.
It shall apply from 6 September 1994.

ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN THE CAPE VERDE FISHING ZONE

A. Licence application and issuing formalities

1. The relevant Community authorities shall present to the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde, via the Commission Delegation in Cape Verde, an application for each vessel that is to be used for fishing under the Agreement, at least 15 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde, a specimen of which is attached hereto (Appendix 1).

2. Each licence application shall be accompanied by proof of payment of the fee for the period of the licence's validity. Payment shall be made into an account opened with a financial institution or any other body designated by the Cape Verdean authorities. The fees shall include all national and local charges except for port taxes and service charges.

3. Licences for all vessels shall be issued by the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde, within 15 days following receipt of proof of payment as laid down in point 2, to the shipowners or their representatives via the Delegation of the Commission of the European Communities in Cape Verde.

4. Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the Commission of the European Communities, a vessel's licence may, and in the case of force majeure shall, be replaced by a new licence for another vessel with features similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde via the Delegation of the Commission of the European Communities in Cape Verde.

The new licence shall indicate:

- the date of issue,
- the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no fee as laid down in Article 4 (2) of the Agreement shall be due for unexpired period of validity.

5. The licence must be held on board at all times.

6. The Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde shall give notice, before the Agreement enters into force, of the arrangements for payment of the fee, including information on bank accounts and the currencies to be used.

B. Provisions applicable to tuna vessels and surface longliners

1. Licences shall be valid for one year. They shall be renewable.

2. The fee shall be ECU 20 per tonne caught within the Cape Verde fishing zone.

3. Licences shall be issued after payment to the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde of a lump sum of ECU 1 500 a year for each tuna seiner and ECU 300 a year for each pole-and-line tuna vessel and surface longliner, equivalent to the fees payable for a catch of:

- 75 tonnes of tuna per year in the case of seiners,
- 15 tonnes of tuna per year in the case of pole-and-line vessels and surface longliners.

4. The master must keep a fishing log as shown in Appendix 2 for each fishing period spent in the Cape Verde fishing zone.

Logs shall be sent for processing to the Institut Français de Recherche Scientifique et

Technique d'Outre-Mer (ORSTOM), the Instituto Español de Oceanografía (IEO) and the Instituto Nacional de Investigação das Pescas (INIP) of Cape Verde within a month of the end of each calendar quarter.

The Member States shall notify the Commission of the European Communities by 15 April of catches, in tonnes, during the previous year, as confirmed by the scientific institutes. On the basis of this information, the Commission shall draw up a statement of fees due for the fishing period and send it to the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde for comments.

Shipowners shall receive notification by the end of April of the statement drawn up by the Commission, and shall have 30 days to make any payment due. If the amount of the final statement is lower than the amount of the lump sum advance payment, the balance shall not be reimbursable to the shipowner.

C. Provisions applicable to licences for other vessels

In the case of bottom longliners, licences shall be valid for three, six or 12 months. The annual fee shall be fixed according to GRT, at the rate of ECU 100 per GRT, in proportion to the duration of the licence.

D. Statement of catch

1. For tuna seiners, pole-and-line tuna vessels and surface longliners, a fishing log shall be kept in accordance with paragraph 4 of point B.

2. Bottom longliners shall be obliged to notify the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde of their catches using the standard form set out in Appendix 3 via the Delegation of the Commission of the European Communities in Cape Verde. These statements shall be monthly and must be communicated at least once every three months.

3. Forms must be completed legibly and signed by the master of the vessel.

4. Should these provisions not be adhered to, the relevant Cape Verdean authorities reserve the right to apply, inter alia, one or both of the following penalties:

- suspension of the licence of the offending vessel,
- imposition of a fine.

In this case, the Delegation of the Commission of the European Communities in Cape Verde shall be informed.

E. Landing of catch

Community tuna vessels shall, wherever possible, contribute towards supplying the Cape Verde tuna canning factories in accordance with their catches in the zone at a price fixed by mutual agreement between the Community shipowners and the Cape Verdean fishing authorities on the basis of current prices on the international markets. Payment shall be made in convertible currency.

Moreover, tuna vessels landing their catches in a Cape Verdean port shall, wherever possible, make part of their by-catch available to the fishing authorities of Cape Verde at local market prices.

F. Signing-on of seamen

1. Tuna vessel and surface longliner owners shall employ Cape Verdean nationals, subject to the following conditions and limits:

- for the fleet of tuna seiners, four Cape Verdean seamen shall be signed on during the tuna period in the Cape Verde fishing zone,
- for the fleet of pole-and-line tuna vessels, three Cape Verdean seamen shall be signed on during the tuna fishing period in the Cape Verde fishing zone, all of them to be assigned to different vessels,
- for the fleet of surface longliners, two Cape Verdean seamen shall be signed on during the fishing period in the Cape Verde fishing zone, each of them to be assigned to different vessels.

2. The wages of these seamen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the relevant Cape

Verdean authorities; the wages shall be borne by the shipowners and must include the social contributions to which the seaman is subject (including life assurance and accident and sickness insurance). The shipowner or his representative shall send a copy of the labour contract to the Directorate-General of Fisheries of Cape Verde.

3. Should the seamen not be signed on, shipowners shall be obliged to pay a lump sum equivalent to the wages of seamen not signed on.

This sum will be used for the training of seamen in Cape Verde and is to be paid into the account specified by the relevant Cape Verdean authorities.

4. The shipowner or his representative shall notify the Ministry for Fisheries, Agriculture and Rural Life of the list of Cape Verdean sailors taken on board Community ships during the fishing season, with details of their registration as crew members and the ships they have boarded.

G. Taking on board of observers

1. Before issuing licences, the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde shall notify shipowners or their representatives of the vessels on board which they must take an observer.

The observer may not remain on board longer than is necessary for the accomplishment of his duties.

The salary and social contributions of the observer shall be borne by the relevant Cape Verdean authorities.

2. The work of the observer and the conditions on which he is taken on board must not interrupt or hinder fishing activities. The observer shall be taken on board at a port chosen by the shipowner at the beginning of the first voyage after notification of the list of designated ships.

Within two weeks, the shipowners concerned shall make known at which ports and on what dates, giving 10 days' notice, they intend to take observers on board.

Should the observer be taken on board in a foreign port, his travelling costs shall be borne by the shipowner. Should a tuna vessel with an observer on board leave the Cape Verde fishing zone, all measures must be taken to ensure the observer's return to Cape Verde as soon as possible at the expense of the shipowner.

H. Fishing zones

Community vessels may carry out fishing activities in the following zones, determined by reference to the base lines:

- beyond 12 miles for tuna seiners and surface longliners,
- beyond six miles for pole-and-line tuna vessels,
- from the base lines for live bait fishing and for bottom longliners.

I. Meshes authorized

The minimum mesh size authorized for the trawl body (mesh fully extended) shall be:

- 16 mm for live bait fishing.

In the case of tuna, the international standards recommended by ICCAT shall apply.

J. Entering and leaving the zone

1. All Community vessels fishing under the Agreement in the Cape Verde zone shall communicate to the Saõ Vicente radio station the date and time and their position when entering and leaving the Cape Verde fishing zone.

2. When leaving the Cape Verde fishing zone, ships shall notify their total catch to the relevant Cape Verdean authorities via the Saõ Vicente radio station.

3. The call sign and operating frequencies and working hours of the station shall be communicated to the shipowners or their representatives by the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde at the time the licence is issued.

4. In cases where this radio communication cannot be used, vessels may use alternative means, such as telex or fax.

K. Port equipment and use of supplies and services

Community vessels shall, where possible, procure in Cape Verde all supplies and services necessary for their activities. The relevant Cape Verdean authorities shall, in agreement with the shipowners or their representatives, establish the conditions for using port equipment and, if necessary, supplies and services.

L. Procedure in case of boarding

1. The Delegation of the Commission of the European Communities in Cape Verde shall be notified within 48 hours of any boarding within the Cape Verde fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under this Agreement. A brief report of the circumstances and reasons leading to the boarding shall be provided within 72 hours.
2. A meeting shall be held, within 24 hours of receipt of the abovementioned information, between the Delegation of the Commission of the European Communities in Cape Verde, the Office of the Ministry for Fisheries, Agriculture and Rural Life of Cape Verde and the inspection authorities, possibly attended by a representative of the Member State concerned, at which the parties shall exchange any relevant documentation or information helping to clarify the circumstances of the established facts. The shipowner or his representative shall be informed of the outcome of the meeting and of any measures resulting from the boarding.
3. A vessel boarded following a fisheries infringement shall be released upon payment of a security, to be fixed in the light of the costs occasioned by the boarding and the amount of fines and compensation to which those responsible for the infringement are liable.

Appendix 1

>START OF GRAPHIC<

MINISTRY FOR FISHERIES, AGRICULTURAL AND RURAL LIFE

Licence application for foreign industrial fishing vessels

1. Name of shipowner:
2. Address of shipowner:
3. Name of representative or local agent of shipowner:
4. Address of representative or local agent of shipowner:
5. Name of master:
6. Registration of vessel:
7. Registration number:
8. Date and place of construction:
9. Flying the flag of:
10. Port of registration:
11. Port of rigging:
12. Overall length:
13. Width:
14. Gross tonnage:
15. Net tonnage:
16. Hold capacity:
17. Chilling or freezing capacity:
18. Engine type and horse power:
19. Type of fishing:
20. Crew complement:
21. Communication equipment:
22. Call sign:
23. Dialling signals:
24. Fishing operations to be carried out:
25. Place for landing catch:
26. Fishing zones:
27. Species to be caught:
28. Period of validity:
29. Special conditions:

30. Other activities of the applicant in Cape Verde:
Opinion of the Directorate-General for Fisheries
Remarks of the Ministry for Fisheries, Agriculture and Rural Life
>END OF GRAPHIC>

Appendix 2

>REFERENCE TO A FILM>

Appendix 3

>START OF GRAPHIC>

INFORMATION ON CATCHES RESULTING FROM INDUSTRIAL FISHING

1. Name and registration number of vessel:

2. Nationality:

3. Type of vessel:

(i.e. for fresh fish, tuna, etc.)

4. Master's name:

5. Fishing licence issued by:

valid for the period:

6. Type of fishing:

7. Date of leaving port:

Date of entering port:

8. Catches:

Date Fishing zone Species caught Tonnage Port of landing

I the undersigned....., Master of the vessel cited above, or his representative, hereby declare that the information given above is correct, as witnessed by the observer of the Government.

Witnessed by The Observer of the Government Signed The Master

>END OF GRAPHIC>