

PROTOCOL

between the European Union and the Union of the Comoros setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force

Article 1

Period of application and fishing opportunities

1. From 1 January 2014, and for a period of three years, the fishing opportunities granted under Article 5 of the Agreement shall be as follows:

Highly migratory species (species listed in Annex 1 to the 1982 United Nations Convention on the Law of the Sea) with the exception of the *Alopiidae* and *Sphyrnidae* families, in addition to the following species: *Cetorhinus maximus*, *Rhincodon typus*, *Carcharodon carcharias*, *Carcharhinus falciformis*, *Carcharhinus longimanus*;

— tuna seiners: 42 vessels

— surface longliners: 20 vessels.

2. Paragraph 1 shall apply subject to Articles 5, 6, 7 and 8 of this Protocol.

3. Vessels flying the flag of a Member State of the European Union (hereafter 'EU vessels') may engage in fishing activities in the fishing zone of the Union of the Comoros only if they are in possession of a valid fishing licence issued by the Union of the Comoros under this Protocol.

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 1 800 000.

2. The financial contribution comprises:

(a) an annual amount for access to the Union of the Comoros's fishing zone of EUR 300 000, equivalent to a reference tonnage of 6 000 tonnes per year, and

(b) a specific amount of EUR 300 000 per year to support the implementation of the Union of the Comoros's sectoral fisheries policy.

3. Paragraph 1 shall apply subject to Articles 5, 6, 7 and 8 of this Protocol and Articles 12 and 13 of the Agreement.

4. The European Union shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 600 000 per year during the period of application of this Protocol, corresponding to the sum of the annual amounts referred to in paragraph 2(a) and (b).

5. Payment of the financial contribution laid down in paragraph 2(a) for access by EU vessels to the fishing zone of the Union of the Comoros shall be made by the European Union no later than 90 days after the date of provisional application of the Protocol, and in the following years no later than 60 days after the anniversary date of its provisional application.

6. The parties shall ensure regular monitoring of catches taken by EU vessels in the fishing zone of the Union of the Comoros. To this end, the parties shall regularly analyse data on the catch and effort of EU vessels operating in the fishing zone of the Union of the Comoros, notably within the Joint Committee.

7. If the overall quantity of catches by EU vessels in the fishing zone of the Union of the Comoros exceeds the reference tonnage specified in paragraph 2(a), the total amount of the annual financial contribution shall be increased by EUR 50 for each additional tonne caught during the year in question. However, the total annual amount paid by the European Union shall not be more than twice the amount specified in paragraph 2(a) (EUR 600 000). Where the quantities caught by EU 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 Comorian authorities shall have full discretion regarding the use to which the financial contribution referred to in paragraph 2(a) is put.

9. The financial contribution specified in Article 2(2) of this Protocol shall be paid into a Public Treasury account opened with the Central Bank of the Comoros. The Union of the Comoros shall notify the account references to the European Union every year.

10. From this single account, the amount corresponding to the financial contribution referred to in Article 2(b) shall be transferred to the account TR 5006 opened with the Central Bank of the Comoros by the Ministry responsible for fisheries.

Article 3

Promotion of responsible and sustainable fishing in the waters of the Union of the Comoros

1. No later than three months into the provisional application of this Protocol, the parties shall agree, within the Joint Committee set up under Article 9 of the Fisheries Partnership Agreement, on a multiannual sectoral programme and detailed implementing rules, in particular:

- (a) annual and multiannual guidelines for using the financial contribution referred to in Article 2(2)(b);
 - (b) the objectives, both annual and multiannual, to be met to ensure the conditions for responsible and sustainable fishing, taking account of the priorities expressed by the Union of the Comoros in its national fisheries policy or other framework policies promoting responsible and sustainable fishing;
 - (c) criteria and procedures for evaluating the results obtained each year.
2. Any proposed amendments to the multiannual sectoral programme must be approved by both parties within the Joint Committee.
3. Each year, the parties shall carry out an evaluation within the Joint Committee of the progress made in implementing the multiannual sectoral programme. If necessary, the parties shall continue this monitoring after this Protocol expires, until the specific financial contribution provided for in Article 2(2)(b) has been used up.
4. Each year, the Union of the Comoros shall decide on the allocation, if necessary, of an additional amount to the part of the financial contribution referred to in Article 2(2)(b) with a view to implementing the multiannual sectoral programme. The European Union shall be informed of any such allocation.

Article 4

Scientific and technical cooperation to ensure responsible fishing

1. The parties hereby undertake to promote responsible fishing in the fishing zone of the Union of the Comoros based on the principle of non-discrimination between the different fleets fishing in the zone and the fight against illegal, unreported and unregulated fishing (IUU).
2. Over the period covered by this Protocol, the European Union and the Union of the Comoros shall endeavour to monitor the state of fishery resources in the Union of the Comoros's fishing zone.
3. The parties shall comply with the recommendations and resolutions of the Indian Ocean Tuna Commission (IOTC) and undertake to promote cooperation at subregional level on the responsible management of fishing activities.
4. In accordance with Article 4 of the Agreement, based on the recommendations and resolutions adopted within the IOTC and the best available scientific advice, the parties shall consult each other within the Joint Committee set up under Article 9 of the Agreement with a view to adopting, where necessary after a scientific meeting and by mutual agreement, the technical conservation measures to be implemented by EU vessels to ensure the sustainable management of fisheries resources.

Article 5

Review of fishing opportunities and technical measures by mutual agreement within the Joint Committee

1. As provided for by Article 9 of the Fisheries Partnership Agreement, the Joint Committee may review the fishing opportunities referred to in Article 1 and adjust them by mutual agreement, provided that they continue to comply with the IOTC's scientific advice and recommendations.
2. In this case the financial contribution referred to in Article 2(2)(a) shall be adjusted proportionately and *pro rata temporis*. However, the total annual amount of the financial contribution paid by the European Union shall not be more than twice the amount referred to in Article 2(2)(a).
3. Where necessary the Joint Committee may examine and adapt, by mutual agreement, the provisions governing the pursuit of fishing activities and the rules for implementing this Protocol and the Annexes thereto.

Article 6

Exploratory fishing and new fishing opportunities

1. Where EU vessels are interested in fishing activities not provided for in Article 1 for the purpose of testing the technical feasibility and the economic viability of new fisheries, licences for carrying out such activities on an exploratory basis may be allocated in accordance with the relevant Comorian legislation. Where possible such exploratory fishing shall be carried out with the support of locally available scientific and technical expertise.
2. To this end, the European Union shall communicate to the Comorian authorities the applications for exploratory fishing licences in a technical file specifying:
- the targeted species;
 - the technical characteristics of the vessel;
 - the experience of the vessel's officers with regard to the fishing activities in question;
 - the technical parameters of the trip (length, gear, regions to be explored, etc.);
 - the type of data collected to ensure scientific monitoring of the fishing activities' impact on the resource and the ecosystems.
3. Exploratory fishing licences shall be granted for a maximum period of 12 months. They shall be subject to the payment of a fee set by the Comorian authorities.
4. Catches consistent with and obtained during the exploratory trip shall remain the property of the vessel owner.
5. The detailed results of the trip shall be sent to the Joint Committee for analysis.

6. Where the parties consider that such exploratory fishing trips have produced positive results, the Comorian authorities, in a meeting of the Joint Committee, may allocate fishing opportunities for new species to the EU fleet until the expiry of this Protocol. The financial contribution referred to in Article 2(2)(a) of this Protocol shall be increased accordingly. The fees and other conditions for vessel owners laid down in the Annex shall be amended accordingly.

Article 7

Suspension and revision 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 within the Joint Committee if one or more of the following conditions apply:

- (a) fishing activities in the Union of the Comoros's fishing zone are prevented owing to unusual circumstances other than natural phenomena;
- (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) activation of the consultation mechanisms laid down in Article 96 of the Cotonou Agreement owing to a violation of essential and fundamental elements of human rights within the meaning of Article 9 of that Agreement.

2. The European Union may revise or suspend, partially or totally, the payment of the specific financial contribution provided for in Article 2(2)(b) of this Protocol:

- (a) if the results obtained are deemed inconsistent with the programming in an evaluation carried out by the Joint Committee;
- (b) in the event of failure to implement this financial contribution.

3. Payment of the financial contribution shall resume after consultation and agreement between the parties as soon as the situation prior to the events mentioned in paragraph 1 has been re-established, and/or if the results of the financial implementation referred to in point 2 so warrant.

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 parties after consultation within the Joint Committee if one or more of the following conditions apply:

- (a) fishing activities in the Union of the Comoros's fishing zone are prevented owing to unusual circumstances other than natural phenomena;

(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) activation of the consultation mechanisms laid down in Article 96 of the Cotonou Agreement owing to a violation of essential and fundamental elements of human rights within the meaning of Article 9 of that Agreement;

(d) 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 7 of this Protocol;

(e) a serious and unresolved dispute between the parties on the application or the interpretation of this Protocol.

2. Where the application of the Protocol is suspended for reasons other than those given in paragraph 1(c) above, it 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. Suspension of the Protocol for the reasons given in paragraph 1(c) shall apply immediately after the suspension decision has been taken.

3. In the event of suspension, the parties shall continue to consult each other 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* to the period during which application of the Protocol was suspended.

Article 9

Applicable legislation

1. The activities of EU fishing vessels operating in the Union of the Comoros's fishing zone shall be governed by the applicable law in the Union of the Comoros, unless the Fisheries Partnership Agreement or this Protocol provide otherwise.

2. The parties shall notify each other in writing of any changes in their fisheries policy or legislation.

Article 10

Electronic communication

1. The Union of the Comoros and the European Union 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 documents provided for by this Protocol shall be considered equivalent to the paper version in every respect.

3. The Union of the Comoros 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 of data**

The Union of the Comoros and the European Union undertake to ensure that all nominative data relating to EU vessels and their fishing activities to which they have gained access in the framework of the Agreement will, at all times, be processed strictly in accordance with confidentiality and data protection principles.

*Article 12***Termination**

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

*Article 13***Provisional application**

This Protocol with its Annex shall apply provisionally from 1 January 2014.

*Article 14***Entry into force**

This Protocol with its Annex 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 Union of the Comoros

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY EUROPEAN UNION VESSELS

CHAPTER I

GENERAL PROVISIONS

1. Designation of the competent authority

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

- for the European Union: the European Commission, where applicable via the EU delegation in Mauritius;
- for the Union of the Comoros: The Comorian Ministry responsible for fisheries.

2. Fishing zone

To avoid adverse effects on small-scale fisheries, EU vessels shall not be allowed to fish within 10 nautical miles of any of the islands.

Shipping and fishing shall also be prohibited for EU vessels within a radius of three nautical miles of anchored fish aggregating devices (FADs) placed by the Ministry responsible for fisheries in the Union of the Comoros. The Ministry shall inform the vessel owners of the coordinates indicating the anchored FADs' position when the fishing licence is issued.

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

3. Bank account

Before the Protocol's provisional application the Union of the Comoros shall notify the EU of the details of the bank account with the Comoros Central Bank 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 LICENCES

For the purposes of applying the provisions of this Annex, the term 'fishing licence' means the right to engage in fishing activities for a specific period, in a specific zone or in a specific fishery.

1. Condition for obtaining a tuna fishing licence – eligible vessels

1.1. The fishing licences referred to in Article 7 of the Agreement shall be issued on the condition that the vessel is included in the EU register of fishing vessels and in the IOTC list of licensed fishing vessels, and that all previous obligations of the vessel owner, the master or the vessel itself arising out of fishing activities in the Union of the Comoros's fishing zone under the Agreement and the Comorian fisheries legislation have been met.

1.2. Any EU vessel applying for a fishing licence may be represented by an agent resident in the Union of the Comoros.

2. Application for a fishing licence

2.1. The competent EU authorities shall present to the competent authorities of the Union of the Comoros an application for each vessel wishing to fish under the Agreement at least 20 days before the date of commencement of the period of validity requested.

2.2. An initial application for a fishing licence on the basis of the Protocol in force, or an application submitted due to a technical change to the vessel concerned, shall be accompanied by:

- i. proof that the advance has been paid for the period of validity of the fishing licence;
- ii. the name, address and contact details of:
 - the owner of the fishing vessel
 - the operator of the fishing vessel

- the local agent for the vessel;
 - iii. a recent colour photograph of the vessel, showing a side view, and at least 15 cm x 10 cm in size;
 - iv. the vessel's seaworthiness certificate;
 - v. the vessel's registration number;
 - vi. VMS transponder coordinates;
 - vii. the fishing vessel's contact details (fax, e-mail, etc.).
- 2.3. In the case of renewal of a fishing licence under the Protocol in force for a vessel whose technical specifications have not been modified, the renewal application need only be accompanied by proof of payment of the fee.

3. Fees

- 3.1. Fishing licences shall be issued once the following fixed amounts have been paid to the competent national authorities:

- EUR 4 235 per year per tuna seiner, equivalent to the fees due for 77 tonnes of tuna caught in the Union of the Comoros's fishing zone;
- EUR 2 475 per year per surface longliner, equivalent to the fees due for 45 tonnes of tuna caught in the Union of the Comoros's fishing zone.

- 3.2. The fee shall be EUR 55 per tonne caught within the Union of the Comoros's fishing zone.

4. Provisional list of vessels permitted to fish

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

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

Vessels included on the provisional list shall be permitted to start fishing pending the issue of a fishing licence. Vessels must keep a copy of the provisional list on board until their fishing licence is issued.

5. Issue of fishing licences

For all vessels fishing licences shall be issued to the vessel owners or their agent within 15 working days of the competent authority receiving the full application.

The competent authority shall immediately send a copy of the fishing licence to the EU Delegation in Mauritius.

Once it has been issued and received, the fishing licence must be kept on board at all times.

6. List of vessels licensed to fish

Once the fishing licence is issued, the national body responsible for supervising fishing activities shall immediately draw up for each category of vessel the final list of vessels licensed to fish in the Union of the Comoros's fishing zone. This list shall be sent to the EU immediately and shall replace the provisional list referred to above.

7. Period of validity of the fishing licence

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

8. Transfer of fishing licences

The fishing licence shall be issued for a given vessel and shall not be transferable. However, where *force majeure* is proven, and at the request of the EU, a vessel's fishing licence may be replaced by a new licence issued for another vessel of the same category as the first vessel, without payment of a new advance.

9. Support vessels

- 9.1. Support vessels must be licensed in accordance with the provisions and conditions provided for in Comorian legislation.
- 9.2. There must be no fee for licences issued to support vessels. Such vessels must fly the flag of an EU Member State or be part of a European company.
- 9.3. The competent Comorian authorities shall send a list of these licences to the Commission, via the EU Delegation in Mauritius, on a regular basis.

CHAPTER III

CATCH REPORTING

1. Fishing logbook

- 1.1. The master of an EU vessel fishing under the Agreement shall keep an IOTC fishing logbook, which must comply with the relevant IOTC resolutions on data collection and transmission with regard to fishing activities.
- 1.2. The fishing logbook shall be filled in by the master for each day the vessel is present in the fishing zone of the Union of the Comoros.
- 1.3. The fishing logbook shall be filled in legibly, in block capitals, and shall be signed by the master.
- 1.4. The master shall be responsible for the accuracy of the data recorded in the fishing logbook.

2. Catch reporting

- 2.1. The master shall report the vessel's catch by submitting to the Union of the Comoros its fishing logbooks for the period of its presence in the Union of the Comoros's fishing zone.
- 2.2. The fishing logbooks shall be transmitted in one of the following ways:
 - i. when passing through a Comorian port, the original of each fishing logbook is to be submitted to the local representative of the Union of the Comoros, who shall confirm receipt thereof in writing; a copy of the logbook is to be handed over to the Union of the Comoros's inspection team;
 - ii. when leaving the fishing zone of the Union of the Comoros without first passing through a Comorian port, the original of each fishing logbook is to be sent within a period of seven working days after arrival in any other port, and in any case within a period of 15 working days after leaving the fishing zone of the Union of the Comoros:
 - by e-mail, to the e-mail address given by the national body responsible for supervising fishing activities;
 - or by fax, to the number given by the national body responsible for supervising fishing activities;
 - or by letter sent to the national body responsible for supervising fishing activities.
- 2.3. Where the vessel returns into the Union of the Comoros's fishing zone within the period of validity of its fishing licence, a new catch declaration shall be required.
- 2.4. The master shall send a copy of all the fishing logbooks to the EU Delegation in Mauritius, to the National Fisheries Monitoring and Inspection Centre (NFMCC) and to one of the following scientific institutes:
 - i. Institut de recherche pour le développement (IRD);
 - ii. Instituto Español de Oceanografía (IEO);
 - iii. IPMA (Instituto Português do Mar e da Atmosfera).
- 2.5. Where the provisions concerning catch reporting are not complied with, the Union of the Comoros may suspend the fishing licence of the vessel concerned until the missing catch declaration is submitted and penalise the vessel owner in accordance with the relevant provisions of the national legislation in force. If the offence is repeated, the Union of the Comoros may refuse to renew the fishing licence. The Union of the Comoros shall inform the EU immediately of any penalty imposed in this context.

3. Transition to an electronic system

The parties agree to introduce an electronic logbook and a system for electronic reporting of catch data (ERS) in accordance with the guidelines laid down in Appendix 3. The parties shall establish together the details of how this system is to be implemented, with the aim of making it operational from 1 July 2015.

4. Final statement of fees for tuna vessels and surface longliners

- 4.1. Until the electronic system provided for under point 3 is in place, the EU shall draw up for each tuna seiner and surface longliner, 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.
- 4.2. The EU shall send this final statement to the Union of the Comoros and to the vessel owner before 31 July of the current year.
- 4.3. From the date the electronic system provided for under point 3 becomes operational, the EU shall draw up for each tuna seiner and surface longliner, 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.
- 4.4. The EU shall send this final statement to the Union of the Comoros and to the vessel owner before 31 March of the current year.
- 4.5. If the final statement is less than the flat-rate fee paid in advance, the remaining amount may not be reclaimed by the vessel owner.
- 4.6. If the final statement is greater than the flat-rate fee paid in advance to obtain the fishing licence, the vessel owner shall pay the outstanding balance to the competent national authorities of the Union of the Comoros no later than 30 September of the current year to the account referred to in of Chapter I, paragraph 3, of this Annex.

CHAPTER IV

TRANSHIPMENTS AND LANDINGS

1. Transhipment at sea is prohibited. Any EU vessel wishing to tranship or land catches taken in the Union of the Comoros's fishing zone must do so within ports of the Union of the Comoros.
2. The master of an EU vessel wishing to land or tranship must notify the NFMIC and, at the same time, the port authority concerned in the Union of the Comoros at least 24 hours before the landing or transhipment is to take place, of the following:
 - the names of the fishing vessels involved in the transhipment or landing,
 - the name of the cargo vessel;
 - the tonnage by species to be transhipped or landed;
 - the day of transhipment or landing;
 - the beneficiary of the landed catches.
3. Transhipment and landing shall be considered as an exit from the Union of the Comoros's fishing zone. Vessels must therefore submit their catch declarations to the competent Comorian authorities and state whether they intend to continue fishing or leave the Union of the Comoros's fishing zone.
4. Any transhipment or landing of catches not covered by the above points shall be prohibited in the Union of the Comoros's fishing zone. Any person infringing this provision shall be liable to the penalties provided for by Comorian law.

CHAPTER V

SIGNING-ON OF SEAMEN

1. Each EU vessel shall take on board, at its own expense, at least one (1) qualified Comorian seaman during a trip in the fishing zone of the Union of the Comoros.

2. Vessel owners shall be free to select the seamen they take on board from the names on a list submitted by the competent authority of the Union of the Comoros.
3. The vessel owner or their agent shall inform the competent authority of the Union of the Comoros of the names of the local seamen taken on board the vessel concerned, mentioning their position in the crew.
4. 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.
5. Seamen's employment contracts, a copy of which shall be given to the signatories, shall be drawn up between the vessel owners' agent(s) and the seamen and/or their trade unions or representatives in consultation with the competent authority of the Union of the Comoros. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance.
6. The wages of the ACP seamen shall be paid by the vessel owners. They shall be fixed by mutual agreement between the vessel owners or their representatives and the seamen and/or their trade unions or representatives. However, the wage conditions granted to ACP seamen shall not be lower than those applied to crews from their respective countries and shall under no circumstances be below ILO standards.
7. Seamen employed aboard EU vessels shall report to the master of the designated vessel on the day before their proposed embarkation date. Where a seaman fails to report at the date and time agreed for embarkation, the vessel owner shall be automatically absolved of their obligation to take that seaman on board.
8. In the event of failure to comply with the obligation laid down in paragraph 1 for any reason other than that given in the previous point, vessel owners shall be liable to pay a flat-rate amount of EUR 20 per day and per vessel for each day their vessels are present in the Union of the Comoros's fishing zone. The payment of this amount shall take place within the limits laid down in point 6 of Section 4 of Chapter III of this Annex.
9. The amount shall be used for training local seamen and shall be paid into the account specified by the Comorian authorities.

CHAPTER VI

OBSERVERS

1. Vessels licensed to fish under the Agreement shall take on board observers, preferably accredited at regional level and designated by the Comorian authorities responsible for fisheries, on the terms set out below.
 - 1.1. At the request of the Ministry responsible for fisheries in the Union of the Comoros, tuna vessels shall take on board an observer appointed by the Ministry to check catches made in Comorian waters.
 - 1.2. The competent authority of the Union of the Comoros shall draw up a list of vessels designated to take an observer on board and a list of the appointed observers. These lists shall be kept up to date. They shall be forwarded to the EU as soon as they have been drawn up and every three months thereafter where they have been updated.
 - 1.3. The competent authority of the Union of the Comoros shall inform the vessel owners concerned, or their agents, of the name of the observer appointed to be taken on board the vessel at the time the licence is issued, or no later than 15 days before the observer's planned embarkation date, also indicating the time the observer will spend on board the vessel.
2. The conditions under which an observer is taken on board shall be agreed between the vessel owner or their agents and the Comorian authorities.
3. The observer shall embark in a port chosen by the vessel owner. The vessel owners concerned shall notify the competent authorities ten days in advance of the date and port selected for taking the observers on board.
4. Where observers are taken on board in a foreign country, their travel costs shall be borne by the vessel owner. Should a vessel with an observer on board leave the Union of the Comoros's fishing zone, all measures must be taken to ensure the observer's return to the Union of the Comoros as soon as possible at the expense of the vessel owner.

5. If the observer is not present at the time and place agreed or within the twelve hours following the time agreed, the vessel owner shall be automatically absolved of their obligation to take the observer on board.
6. An observer shall be treated on board as an officer. He or she shall carry out the following tasks:
 - observe the vessels' fishing activities;
 - verify the position of vessels engaged in fishing operations;
 - note the fishing gear used;
 - verify the data recorded in the logbook for catches taken in the Union of the Comoros's fishing zone;
 - verify the percentages of by-catches and estimate the quantity of discards of species of marketable fin-fish, crustaceans and cephalopods;
 - report fishing data by radio, including the quantity of catches and by-catches on board.
7. The master shall do everything in his/her power to ensure the physical safety and welfare of the observer during the performance of his/her duties.
8. The observer shall be offered every facility needed to carry out their duties. The master shall give him/her access to the means of communication needed for the discharge of their duties, to documents directly concerned with the vessel's fishing activities, including in particular the logbook and the navigation log, and to those parts of the vessel necessary to facilitate the exercise of their tasks.
9. While on board, the observer shall:
 - take all appropriate steps to ensure that the conditions of their boarding and presence on the vessel neither interrupt nor hamper fishing operations;
 - respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.
10. At the end of the observation period and before leaving the vessel, the observer shall draw up an activity report to be transmitted to the competent authorities in the Union of the Comoros, with a copy to the EU Delegation in Mauritius. He/she shall sign it in the presence of the master, who may add or cause to be added to it any observations considered relevant, followed by the master's signature. A copy of the report shall be given to the master of the vessel when the observer is put ashore.
11. The observer shall be provided with board and lodging at the vessel owner's expense in the same conditions as the officers, within the confines of the structure of the vessel.
12. The salary and the social security contributions of the observer shall be borne by the competent authorities of the Union of the Comoros.

CHAPTER VII

CONTROL AND INSPECTION

1. **Entry into and exit from the fishing zone**
 - 1.1. EU vessels shall notify the Comorian authorities responsible for fisheries control of their intention to enter or leave the Union of the Comoros's fishing zone at least three hours in advance.
 - 1.2. When notifying its entry or exit, the vessel shall specify 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 nature and presentation of the product.

1.3. This information should preferably be communicated by e-mail or, failing that, by fax. The Union of the Comoros shall confirm receipt thereof immediately by return e-mail or fax.

1.4. A vessel found to be fishing without having informed the competent authority of the Union of the Comoros shall be regarded as a vessel in breach of the law.

2. Cooperation as regards combating IUU fishing

In order to bolster the monitoring of fishing and the fight against IUU fishing, masters of EU fishing vessels shall report the presence of any vessels in the Union of the Comoros's fishing zone which are not on the list of vessels licensed to fish in the Union of the Comoros.

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 immediately to the competent authority of the flag State of the sighting vessel, which shall transmit them to the EU or to the body designated by it. The EU shall provide the Union of the Comoros with this information.

The Union of the Comoros shall send the EU any sighting reports it has on fishing vessels engaged in activities which may constitute IUU fishing in the fishing zone of the Union of the Comoros.

3. Satellite-based vessel monitoring system (VMS)

3.1. Vessel position messages – VMS

EU vessels holding a fishing licence must be equipped with a satellite 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 vessel's most recent geographical position (longitude, latitude), with a margin of error of less than 500 metres and 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 according to the format set out in Appendix 2 to this Annex.

The first position recorded after entry into the Union of the Comoros's fishing 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 departure from the Union of the Comoros's fishing zone, which shall be identified by the code 'EXI'. The FMC 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.

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

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

EU vessels with a defective VMS are not authorised to enter the fishing zone of the Union of the Comoros.

In the event of breakdown while the vessel is already operating in the Union of the Comoros's fishing zone, the vessel's VMS shall be repaired or replaced as soon as possible and within 15 days at the latest. After that period, the vessel shall no longer be permitted to fish in the Union of the Comoros's fishing zone.

Vessels fishing in the Union of the Comoros's fishing zone with a defective VMS must communicate their position messages by e-mail or fax to the FMC of the flag State and to the Control Centre of the flag State at the National Fisheries Monitoring and Inspection Centre (NFMIC) of Union of the Comoros at least every six hours, and must provide all the mandatory information.

3.3. *Secure communication of position messages to the Union of the Comoros*

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

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

The NFMIC 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 fishing licence which has not notified its departure from the zone.

3.4. *Malfunction of the communication system*

The Union of the Comoros 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 affecting the sending and receiving of position messages with a view to finding a technical solution as soon as possible. The Joint Committee shall deal with any disputes which may arise.

The master shall be considered to be responsible for any proven manipulation of the vessel's VMS aimed at disturbing its operation or falsifying its position messages. Any infringement shall be subject to the penalties provided for by the Comorian legislation in force.

3.5. *Revision of the frequency of position messages*

On the basis of documentary evidence proving an infringement, the NFMIC may ask the FMC of the flag State, with a copy to the EU, to reduce the interval for sending position messages from a vessel to every thirty minutes for a set period of investigation. Such documentary evidence must be sent by the NFMIC to the FMC of the flag State and the EU. The FMC of the flag State shall immediately send the position messages to the NFMIC at the new frequency.

The NFMIC shall immediately notify the FMC of the flag State and the EU of the end of the inspection procedure.

At the end of the set investigation period, the NFMIC shall inform the FMC of the flag State and the EU of any monitoring which is required.

4. **Inspection at sea**

Inspections at sea of EU fishing vessels holding a licence to fish in the Union of the Comoros's fishing zone shall be carried out by inspectors of the Union of the Comoros who are clearly identified as being assigned to carry out fishing checks.

Before going on board, the authorised inspectors shall inform the EU vessel of their decision to carry out an inspection. The inspection shall be carried out by fisheries inspectors, who must provide proof of their inspection warrant and identity and rank as inspectors before carrying out the inspection.

The authorised inspectors shall stay on board the EU vessel only for the time necessary to carry out the tasks related to the inspection. They shall carry out the inspection in such a way as to minimise the impact on the vessel, its fishing activity and cargo.

At the end of each inspection, the authorised inspectors shall draw up an inspection report. The master of the EU vessel shall have the right to include their comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and by 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 procedure. 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 authorised inspectors shall give the master of the EU vessel a copy of the inspection report before leaving the vessel.

In cases of infringement, a copy of the infringement notification shall also be sent to the EU as provided for in chapter VIII.

5. **Inspection in port**

The inspection of EU vessels landing or transshipping their catch in a Comorian port shall be carried out by inspectors of the Union of the Comoros who are clearly identified as being assigned to carry out fishing checks.

Inspectors must provide proof of their inspection warrant and identity and rank as inspectors before carrying out the inspection. The Comorian inspectors shall stay on board the EU vessel only for the time necessary to carry out the tasks related to the inspection and shall conduct the inspection in such a way as to minimise the impact on the vessel, the landing or transshipment operation and the cargo.

At the end of each inspection, the Comorian inspectors shall draw up an inspection report. The master of the EU vessel shall have the right to include their comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and by 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 procedure. 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 Comorian inspector shall give the master of the EU vessel a copy of the inspection report at the end of the inspection.

In cases of infringement, a copy of the infringement notification shall also be sent to the EU as provided for in chapter VIII.

CHAPTER VIII

INFRINGEMENTS

1. Handling of infringements

Any infringement committed in the fishing zone of the Union of the Comoros by an EU vessel holding a fishing licence in accordance with the provisions of this Annex must be the subject of an inspection report.

2. Detention of a vessel

Should an infringement be established, the EU vessel having committed the infringement may be forced to cease its fishing activity and, where the vessel is at sea, to return to a port in the Union of the Comoros as required by Comorian law.

The Union of the Comoros shall provide, within 24 hours, electronic notification to the EU of any detention of an EU vessel holding a fishing licence. The notification shall provide the reasons for the detention and/or continued retention.

Before taking any measure against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, the NFMIC shall organise, within one working day after notification of the vessel's detention, an information meeting to clarify the events which led to the vessel's detention and explaining what further action may be taken. A representative of the flag State and of the vessel owner may attend this information meeting.

3. Penalties for infringements - Compromise procedure

The penalty for an established infringement shall be established by the Union of the Comoros according to the provisions of the national legislation in force.

A compromise procedure shall be launched prior to any legal procedures between the Comorian authorities and the owner of the EU vessel in order to settle the issue amicably. A representative of the vessel's flag State may be involved in this compromise procedure. The compromise procedure shall finish at the latest 72 hours after notification of the vessel's detention.

4. Legal proceedings – Bank guarantee

If the compromise procedure referred to above is unsuccessful and the infringement is brought before the competent court, the owner of the vessel which committed the infringement shall deposit a bank guarantee, the amount of which, as established by the Union of the Comoros, shall cover the costs linked to the detention of the vessel, the estimated fine and any compensation. The bank guarantee may not be recovered until the legal proceedings have been concluded.

The bank guarantee shall be released and returned to the vessel owner as soon as possible 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 guarantee.

The Union of the Comoros shall inform the EU of the outcome of the legal proceedings within eight days of the judgement 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 at the end of a compromise procedure, or once the bank guarantee has been deposited.

Appendices

1. Fishing licence application form
2. Communication of VMS messages to the Union of the Comoros – Position report
3. Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

Appendix 1

FISHING LICENCE APPLICATION FORM FOR A FOREIGN FISHING VESSEL

I — APPLICANT

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

II — VESSEL IDENTIFICATION

1. Vessel name:
2. Flag country:
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: / / at: 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. Gross tonnage (GT): Net tonnage:
3. Power of main engine in kW: Make: Type:
4. Type of vessel: ☐ Tuna seiner ☐ Pole-and-line vessel ☐ Support vessel ^(*)
5. Fishing gear:
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:

(*) A list of the fishing vessels for which this support vessel is responsible must be attached to the respective form. The list must contain the name and number of the RFMO (IOTC).

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, on

Signature of applicant

Appendix 2

COMMUNICATION OF VMS MESSAGES TO THE UNION OF THE COMOROS
POSITION REPORT

Data element	Tag	Mandatory/ Optional	Comments
Start record	SR	M	System detail – indicates start of record
Addressee	AD	M	Message detail – recipient. Alpha 3 ISO country code
Sender	FS	M	Message detail – sender. Alpha 3 ISO country code
Type of message	TM	M	Message detail - Message type 'POS'
Radio call sign	RC	M	Vessel detail – international radio call sign of vessel
Contracting Party internal reference number	IR	O	Vessel detail – unique contracting party number (flag State ISO3 code followed by number)
External registration number	XR	O	Vessel detail – number marked on side of vessel
Flag State	FS	O	Flag state detail
Latitude	LA	M	Vessel position detail – position in degrees and minutes N/S DDMM (WGS-84)
Longitude	LO	M	Vessel position detail – position in degrees and minutes E/W DDMM (WGS-84)
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 - indicates end of record

Character set: ISO 8859.1

Each data transmission is structured as follows:

- a double slash (//) and the code 'SR' indicate the start of the message;
- a double slash (//) and a code indicate the start of a data element;
- a single slash (/) separates the code and the data;
- pairs of data are separated by a space;
- the code 'ER' and a double slash (//) at the end indicate the end of a record.

Optional data elements have to be inserted between the start and end of the record.

*Appendix 3***Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)****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 on the vessel's fishing activities, hereinafter referred to as 'ERS data', when the vessel is operating in the fishing zone of the Union of the Comoros.
2. An EU vessel that is not equipped with an ERS, or whose ERS is not working, shall not be authorised to enter the Union of the Comoros's fishing zone in order to engage in fishing activities.
3. ERS data shall be transmitted in accordance with these guidelines to the Fisheries Monitoring Centre (hereinafter: FMC) of the flag State, which will make them automatically available to the FMC of the Union of the Comoros.
4. The flag State and the Union of the Comoros 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 three years.
5. Any change or update to the format referred to in point 3 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 the Union of the Comoros 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 FMC of the flag State and that of the Union of the Comoros shall notify each other of the contact details (name, address, telephone and telex numbers and emails) of their ERS correspondents.
 - (c) Any changes to the contact details of the ERS correspondent must be notified immediately.

PRODUCING AND COMMUNICATING ERS DATA

1. EU fishing vessels must:
 - (a) send ERS data on a daily basis for each day spent in the Union of the Comoros's fishing zone;
 - (b) record, for each seine tow or set of a longline, the quantities of each species caught and kept on board as a target species or bycatch, or rejected;
 - (c) declare the bad catch of each species specified in the fishing licence issued by the Union of the Comoros;
 - (d) identify each species by its FAO alpha 3 code;
 - (e) express quantities in kilograms of live weight or, where necessary, the number of individual fish;
 - (f) record, in the ERS data, the transhipped and/or landed quantity of each species specified in the fishing licence issued by the Union of the Comoros;
 - (g) record in the ERS data, every time the Union of the Comoros's fishing zone is 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 licence issued by the Union of the Comoros;
 - (h) transmit ERS data on a daily basis to the FMC of the flag State using the format referred to in paragraph 3 above, by 23:59 UTC at the latest.
2. The master is responsible for the accuracy of the ERS data recorded and sent.
3. The FMC of the flag State shall send the ERS data automatically and without delay to the FMC of the Union of the Comoros.
4. The FMC of the Union of the Comoros 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

1. The flag State shall immediately inform the master and/or owner of a vessel flying its flag, or their representative, of any technical failure of the ERS installed on board or any breakdown in transmission of ERS data between the vessel and the FMC of the flag State.

2. The flag State shall inform the Union of the Comoros of the failure detected and the corrective measures taken.
3. 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 ten days. If the vessel makes a call at a port within those ten days, it may only resume fishing activity in the Union of the Comoros's fishing zone once its ERS is in perfect working order, unless the Union of the Comoros authorises otherwise.
4. Following a technical failure in its ERS, a fishing vessel may not leave port until:
 - (a) its ERS is in working order again, to the satisfaction of the flag State and the Union of the Comoros, or
 - (b) if the vessel does not resume its fishing activities in the Union of the Comoros's fishing zone, it is authorised to do so by the flag State. In the latter case, the flag State shall inform the Union of the Comoros of its decision before the vessel leaves.
5. Any EU vessel operating in the Union of the Comoros's fishing zone 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 to the FMC of the Union of the Comoros.
6. ERS data which could not be made available to the Union of the Comoros via the ERS owing to a failure as referred to in paragraph 12 shall be transmitted by the FMC of the flag State to the FMC of the Union of the Comoros by another mutually agreed form of electronic communication. This alternative transmission shall be considered priority, it being understood that it will not be possible to comply with the transmission deadlines usually applicable.
7. If the FMC of the Union of the Comoros does not receive ERS data from a vessel for three consecutive days, the Union of the Comoros may instruct the vessel to immediately call at a port of the Union of the Comoros's choosing in order to investigate.

FMC FAILURE – ERS DATA NOT RECEIVED BY THE FMC OF THE UNION OF THE COMOROS

1. In the event that ERS data are 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 solve the problem.
2. The FMC of the flag State and the FMC of the Union of the Comoros shall mutually agree on the alternative means of electronic communication to be used in order to transmit ERS data in the event of a FMC failure, and shall immediately inform one another of any changes.
3. If the FMC of the Union of the Comoros reports that ERS data have not been received, the FMC of the flag State shall identify the causes of the problem and take appropriate measures in order to solve it. The FMC of the flag State shall inform the FMC of the Union of the Comoros and the EU of the results and the measures taken, within 24 hours after recognising the failure.
4. If more than 24 hours is required to solve the problem, the FMC of the flag State shall immediately transmit the missing ERS data to the FMC of the Union of the Comoros via one of the alternative means of electronic communication referred to in point 17.
5. The Union of the Comoros shall inform its competent monitoring services (MCS) in order that EU vessels are not considered by the FMC of the Union of the Comoros to be in violation of their obligations for not transmitting ERS data owing to a failure at one of the FMCs.

FMC MAINTENANCE

1. 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 on unplanned maintenance work shall be sent to the other FMC as soon as possible.
 2. 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.
 3. 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.
 4. The Union of the Comoros shall inform its competent monitoring services (MCS) in order that EU vessels are not considered by the FMC of the Union of the Comoros to be in violation of their obligations for not transmitting ERS data owing to maintenance at an FMC.
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