

PROTOCOL establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal for the period from 1 May 1997 to 30 April 2001

Article 1

From 1 May 1997, for a period of four years, the limits referred to in Article 4 (2) of the Agreement shall be as follows:

1. trawlers (inshore demersal fishing for fish and cephalopods) not landing their catch in Senegal: 331 GRT, with the option of fishing with freezing facilities for 150 GRT - number of vessels: 3;
2. ocean-going fish trawlers (deep-water demersal species) not landing their catch in Senegal: 3 750 GRT - number of vessels: 11;
3. freezer trawlers (inshore demersal fishing for fish and cephalopods) landing and selling part of their catch in Senegal: 1 800 GRT - number of vessels: 7;
4. ocean-going freezer trawlers (deep-water demersal fishing for crustaceans, except lobster) not landing their catch in Senegal: 4 119 GRT - number of vessels: 29;
5. pole-and-line tuna vessels: 12 vessels;
6. freezer tuna seiners: 41 vessels;
7. surface longliners: 23 vessels;
8. ocean-going freezer trawlers (deep-water fishing): fleet of 22 vessels per year, with six being able to fish simultaneously.

The maximum catch of deep-sea fish shall be 25 000 tonnes per year.

The total number of trawlers (demersal fishing) shall be 50. A maximum tolerance of 8 % per category shall apply to this figure.

This provision may be altered by agreement between the two parties.

Article 2

The duration of licences for each fishing category is set out in Annex I.A.1.3 and Annex II.A.1.3.

Article 3

1. For the period referred to in Article 1 of this Protocol, the financial compensation referred to in Article 9 of the Agreement is hereby fixed at ECU 48 000 000, payable in four equal annual instalments. The Senegalese authorities shall be responsible for determining the use made of this compensation and shall notify the Commission by 13 April 1997 of the details of that use, using as a basis the aims of sustainable development of fishing, including non-industrial fishing, listed in the previous Protocol (financial compensation to the Treasury, knowledge of fish stocks, training, fisheries surveillance, institutional assistance, special programme of action for fishing activities, etc.).

2. The annual payments shall be made by 30 April of each year. The first instalment must be paid by 31 July 1997.

Article 4

Failure by the Community to make the payments provided for in Article 3 of this Protocol may result in the suspension of the Fisheries Agreement.

Article 5

Annex I to the Agreement between the European Economic Community and the Government of the Republic of Senegal on fishing off the coast of Senegal is hereby repealed and replaced by Annexes I and II to this Protocol.

Article 6

This Protocol shall enter into force on the date of its signing.
It shall apply with effect from 1 May 1997.

ANNEX

'ANNEX I

CONDITIONS GOVERNING FISHING ACTIVITIES IN SENEGAL'S FISHING ZONE BY VESSELS FLYING THE FLAG OF A MEMBER STATE OF THE COMMUNITY (EXCEPT DEEP-SEA TRAWLERS)

A. APPLICATION FOR AND ISSUE OF LICENCES

1.1. The relevant Community authorities shall present to the Senegalese Ministry responsible for sea fisheries an application in respect of each vessel wishing to fish under the Agreement. The application shall be made on the form provided for that purpose by the Government of Senegal, a specimen of which is at Appendix 1. It shall be accompanied by a tonnage certificate and proof of payment of the fee.

The application shall be lodged with the appropriate departments of the Senegalese Ministry responsible for sea fisheries at least 20 days before the starting date requested.

1.2. Fees shall include all national and local charges with the exception of port charges and the costs of services.

After payment of the fee, the licence shall be signed and forwarded to the delegation of the Commission of the European Communities in Dakar.

1.3. Duration of licences

The period of validity of licences and the rate of fees shall be determined on the basis of the following annual periods:

- first year: from 1 May 1997 to 30 April 1998,
- second year: from 1 May 1998 to 30 April 1999,
- third year: from 1 May 1999 to 30 April 2000,
- fourth year: from 1 May 2000 to 30 April 2001.

Quarterly licences shall begin on 1 May, 1 August, 1 November and 1 February of each year.

Half-year licences shall begin on 1 May and 1 November of each year.

Annual licences shall begin on 1 May of each year.

Four-month licences shall begin on 1 May, 1 September and 1 January of each year.

Within each one-year period:

- licences for inshore demersal fishing trawlers shall be issued for six or 12 months,
- licences for deep-sea demersal fishing trawlers shall be issued for four months,
- licences for deep-sea demersal-fishing freezer trawlers fishing for crustaceans apart from lobster shall be issued for three, six or 12 months.

Licences for tuna fishing and for surface longliners shall be one-year licences.

1.4. The fees and advances shall be set in accordance with the following rates:

(a) Fees for trawlers

1. Trawlers (inshore demersal fishing for fish and cephalopods) not landing their catch in Senegal: sums in ecus per GRT per year.

2. Ocean-going fish trawlers (deep-water demersal species) not landing their catch in Senegal: sums in ecus per GRT per four-month period.

3. Freezer trawlers (inshore demersal fishing for fish and cephalopods) landing part of their catch in Senegal: sums in ecus per GRT per year.

4. Ocean-going freezer trawlers (deep-water demersal fishing for crustaceans, except lobster) not landing their catch in Senegal: sums in ecus per GRT per year.

Fees for half-year licences shall be 3 % higher and fees for quarterly licences 5 % higher.

(b) Fees for tuna vessels and longliners

1. Pole-and-line tuna vessels: ECU 10 per tonne of fish caught in Senegal's fishing zone.

2. Freezer tuna seiners: ECU 20 per tonne of fish caught in Senegal's fishing zone.

3. Surface longliners: ECU 46 per tonne of fish caught in Senegal's fishing zone.

The licences referred to in points 2 and 3 shall be issued following payment to the Receveur des domaines of a flat rate of ECU 1 500 for each tuna seiner and ECU 1 150 for each surface longliner, equivalent to the fees for 75 and 25 tonnes respectively of fish per vessel per year.

Upon receipt of the notification of payment of the Commission of the European Communities' advance to the Senegalese authorities, the latter shall enter the vessel in question on the list of vessels authorized to fish which shall be sent to the Senegalese control authorities. A copy of the original of the licence may also be kept on board provisionally.

The final statement of the fees due for the fishing year shall be drawn up at the end of each calendar year by the Commission of the European Communities on the basis of catch statements made by the shipowners for each vessel and confirmed by the Centre de Recherches Océanographiques de Dakar-Thiaroye (CRODT). The statement shall be forwarded simultaneously to the Senegalese authorities and the shipowners. Shipowners must make any additional payment due to the Receveur des domaines within 30 days of notification of the final statement.

However, where the sum due as set out in the final statement is less than the advance, the shipowner will not be reimbursed the difference.

1.5. The Senegalese authorities shall supply details of the bank account to be used for payment or transfer of the fees before the Agreement enters into force. Payments may also be made directly to Dakar's Receveur des domaines.

B. STATEMENTS OF CATCH

All vessels authorized to fish in Senegalese waters under the Agreement shall be required to forward to the Direction de l'Océanographie et des Pêches Maritimes, with a copy to the delegation of the Commission of the European Communities in Dakar, a statement of their catch made out in line with Appendices 2, 3, 4 and 5. These statements must be presented no later than the end of the month following the end of a voyage, and a copy must be kept on board.

Should these provisions not be adhered to, the Government of Senegal reserves the right to suspend the licence of the offending vessel until formalities have been completed and to apply the penalty laid down in current Senegalese legislation. The delegation of the Commission of the European Communities in Dakar shall be informed.

C. LANDING OF CATCH

(a) Freezer trawlers (inshore demersal fishing) in category 3 shall land (at local market prices) 200 kilograms of fish and shrimp per GRT every half-year.

These landings may be made individually or collectively.

Any failure to comply with the requirements to land catches may incur the following sanctions from the Senegalese authorities:

- a fine of ECU 900 for each tonne not landed,
- withdrawal without renewal of the licence of the vessel concerned or of another vessel belonging to the same shipowner.

In order to ensure payment of the fine, the issuing of a licence shall be subject to the lodging in Senegal of a banker's guarantee of ECU 200 per GRT for every half-year.

The Senegalese authorities shall release this security as soon as a vessel has met its landing requirements in full.

(b) In the case of pole-and-line tuna vessels, the target set by the two Parties shall be to land at least 3 500 tonnes of tuna a year in Senegalese ports at the prevailing international price.

If, during the fishing year, total landings by the fleet concerned fall short of this minimum quantity as a result of an unforeseeable change in the state of fish stocks or the structure of the fleet, the two Parties shall enter into consultations without delay in order to find and put forward appropriate solutions to cover the shortfall.

(c) Freezer tuna seiners shall land 12 500 tonnes of tuna a year at the prevailing international price and in accordance with a programme to be established by agreement between Community shipowners and Senegalese canners. In the event of disagreement on the timetable for landings, the Joint Committee referred to in Article 11 of the Agreement shall hold a special meeting at the request of either of the Parties.

D. SIGNING-ON OF SEAMEN

1. Trawlers and longliners authorized to fish in Senegalese waters under the Agreement shall be required to take on enough Senegalese seamen to make up 33 % of their crew. This percentage shall include the observer or seaman/observer referred to in joint J.

The taking-on of Senegalese seamen must be confirmed by a certificate of compliance issued by the merchant navy.

All individual contracts for the recruitment of Senegalese seamen must comply with current Senegalese rules and regulations.

Before licences are issued, the salary of these seamen shall be determined by mutual agreement between the shipowners or their representatives and the ministry responsible for the merchant navy. It shall be paid by the shipowners and shall include the social security applicable to the seamen, including life insurance, accident and sickness cover and IPRES (Institut de prévoyance retraite du Sénégal) contributions.

If the vessel holds a valid fishing licence issued by another country in the subregion (Mauritania, Gambia, Guinea-Bissau or Guinea), it shall be required to take on board a number of Senegalese seamen equivalent to 33 % of the non-officer crew assigned to sail the vessel.

2. In the case of freezer tuna seiners and pole-and-line tuna vessels, the number of seamen to be taken on board shall be established globally on the basis of the scale of activity in Senegal's fishing zone and the employment of crew from other countries whose fisheries are frequented by that fleet.

E. SPECIAL EQUIPMENT AND SUPPLIES AND SERVICES

Wherever possible, Community vessels shall procure the supplies and services they require, including dry dock facilities and regular maintenance, in Senegal.

F. TECHNICAL INSPECTIONS

1. Once a year, and whenever there is an alteration in tonnage or a change in fishing category involving the use of different fishing gear, Community trawlers must undergo the inspections provided for in current rules and regulations at the port of Dakar. Such inspections must be completed within 48 hours of the vessels's arrival in the port, provided the competent authorities have been notified in advance.

2. Once the inspection has been completed, a certificate shall be issued to the captain of the vessel. The certificate must be kept on board at all times.

3. The purpose of the technical inspection is to check that the vessel's technical characteristics and fishing gear are in order and that the conditions governing the recruitment of Senegalese crew are complied with. Safety matters remain the exclusive responsibility of the authority of the flag state.

4. Charges for technical inspections are payable by the shipowner, and shall be determined by the scale set by Senegal's rules and regulations. They must be no higher than those usually paid by other vessels for the same services.

5. Failure to comply with the provisions of points 1 and 2 shall result in the automatic suspension of the fishing licence until the shipowner complies with his obligations.

G. FISHING ZONES

1. Wet fish trawlers (inshore demersal fishing) of 150 GRT or less shall be authorized to fish:

(a) from six nautical miles off the baselines between the Senegal-Mauritania border and the latitude of Cape Manuel (14° 36' 00" Prime N);

(b) from seven nautical miles off the baselines between the latitude of Cape Manuel (14° 36' 00" Prime N) and the northern Senegal-Gambia border;

(c) from six nautical miles off the baselines between the southern Senegal-Gambia border and the Senegal-Guinea Bissau border.

2. Wet fish trawlers (inshore demersal fishing) of more than 150 GRT and freezer trawlers (inshore demersal fishing) shall be authorized to fish beyond 12 nautical miles from the baselines of the waters under Senegal's jurisdiction.

3. Ocean-going trawlers for demersal species shall be authorized to fish:

(a) from 12 nautical miles off the baselines between the Senegal-Mauritania border and latitude 15° 00' N;

(b) from six nautical miles off the baselines between latitude 15° 00' N and the latitude of Portudal (14° 27' 00" Prime N);

(c) from 25 nautical miles off the baselines between the latitude of Portudal (14° 27' 00" Prime N) and the northern Senegal-Gambia border;

(d) from 35 nautical miles off the baselines between the southern Senegal-Gambia border and the Senegal-Guinea Bissau border.

4. Pole-and-line tuna vessels and freezer tuna seiners shall be authorized to fish for bait and tuna in all waters under Senegal's jurisdiction.

5. Surface longliners shall be authorized to drop their lines:

(a) from 15 nautical miles off the baselines between the Senegal-Mauritania border and the latitude of Portudal (14° 27' 00" Prime N);

(b) from 25 nautical miles off the baselines between the latitude of Portudal (14° 27' 00" Prime N) and the northern Senegal-Gambia border;

(c) from 25 nautical miles off the baselines between the southern Senegal-Gambia border and the Senegal-Guinea Bissau border.

6. For safety reasons fishing activities and anchoring and casting shall be forbidden in the area defined by the following coordinates:

H. BIOLOGICAL REST-PERIOD

Every year, if required by the need to manage resources in a sustainable manner, the Senegalese authorities may institute a ban on fishing applicable to all ocean-going trawlers of the same category, without discrimination, for a specific period not exceeding two months.

The Commission shall be informed of the closure period at a meeting of the Joint Committee referred to in Article 11 of the Agreement, and must be given a minimum of three months' notice. Shipowners shall pay no dues during the biological rest-period.

I. RADIO COMMUNICATIONS

The captain shall authorize the observer to contact the PSPS (Projet de protection et surveillance des pêches du Sénégal) whenever necessary.

J. OBSERVERS

1. (a) When fishing in Senegal's waters, all Community trawlers and longliners of more than 150 GRT shall accept on board an observer designated by Senegal. The captain shall facilitate the work of the observer, who shall enjoy all the respect owed to the officers of the vessel concerned.

(b) The Senegalese authorities shall communicate to the Commission of the European Communities the names of the designated observers.

(c) Observers shall be provided with board and accommodation at the shipowner's expense. Their meals shall be served in the officer's messroom and they shall be accommodated in the areas provided for the officers or, if this is impossible, in a living area distinct from that provided for the crew.

2. (a) Trawlers and longliners of 150 GRT or less shall take on board a seaman designated by Senegal who shall act as seaman/observer.

(b) In the case of freezer tuna seiners, one of the Senegalese seamen on board shall be designated seaman/observer.

(c) The captain shall facilitate the work of the seamen/observers that is additional to actual fishing operations. Seamen/observers shall receive the normal seaman's rate of pay from the shipowner.

3. Owners of trawlers or longliners shall make a flat-rate payment to the PSPS of ECU 12 for seamen/observers and ECU 24 for observers for each day spent on board.

4. In principle the observer shall be taken on board for a maximum period of 60 days. This period may be extended where the duration of a voyage by the vessel on which the observer is taken on board exceeds that period.

In such cases, the observer shall leave the vessel on its return. A deposit equivalent to 60 days' activity at sea shall be lodged before the observer or seam/observer boards. Settlement is to be made after each voyage.

5. The taking on board and disembarkation of observers shall not interrupt or hinder fishing operations. Observers may therefore be taken on board and/or leave the vessel in a port elsewhere than in Senegal provided that their travel and subsistence expenses are reimbursed by the shipowner.

The deposit equivalent to 60 days' activity at sea is to be considered an advance on the payment of the observer's allowance. The latter shall be paid after the observer has left the vessel. A final statement of advances made shall be drawn up when the licence expires. However, where the sum due as set out in the final statement is less than the advance, the shipowner will not be reimbursed the difference.

K. BY-CATCHES

1. Trawlers (inshore demersal fishing for fish and cephalopods):

- crustaceans: 7,5 %.

2. Ocean-going fish trawlers (deep-water demersal species):

- crustaceans: 9 %,

- cephalopods: 9 %.

3. Ocean-going freezer trawlers (deep-water demersal fishing for crustaceans, except lobster):

- fish: 12,5 %,

- cephalopods: 15 %.

L. MINIMUM AUTHORIZED MESH

The minimum mesh sizes for authorized industrial fishing gear are as follows (mesh opening):

- purse seines with live bait: 16 mm,

- standard otter trawls (fish or cephalopods): 70 mm,

- standard otter trawls (deep-sea demersal species): 60 mm,
- deep-sea crustacean trawls (not for lobster): 40 mm.

In the case of all fishing gear, no methods or devices may be used to seek to obstruct the mesh of the nets or reduce their selective effect. However, in the interests of reducing wear or damage, protective aprons of netting or other material may be attached, but only to the underside of the codend of a bottom trawl. Such aprons must be attached only to the forward and lateral edges of the codend of the trawl. Protective devices may be used for the top of the trawl, but these must consist of a single section of net of the same material as the codend, with the mesh measuring at least 300 millimetres when stretched out.

Doubling of the codend's netting yarn shall be prohibited.

In the case of tuna, the international standards recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) are to be applied.

M. BOARDING

The delegation of the Commission of the European Communities in Dakar shall be notified within 48 hours of arrival at the merchant navy base of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement between the European Economic Community and Senegal, and of the circumstances and reasons leading to such boarding.

ANNEX II

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY OCEAN-GOING FREEZER TRAWLERS FLYING THE FLAG OF A MEMBER STATE OF THE EUROPEAN COMMUNITY IN SENEGAL'S FISHING ZONE

A. APPLICATION FOR AND ISSUE OF LICENCES

1.1. The relevant Community authorities shall present to the Senegalese Ministry responsible for sea fisheries an application in respect of each vessel wishing to fish under the Agreement. The application shall be made on the form provided for that purpose by the Government of Senegal, a specimen of which is at Appendix 1. It shall be accompanied by a tonnage certificate and proof of payment of the fee.

The application shall be lodged with the appropriate departments of the Senegalese Ministry responsible for sea fisheries at least 10 days before the starting date requested.

1.2. Fees shall include all national and local charges with the exception of port charges and the costs of services.

After payment of the fee, the licence shall be signed and forwarded to the delegation of the Commission of the European Communities in Dakar. Payments may also be made directly to Dakar's Receveur des domaines.

Each vessel shall keep its fishing licence on board. If, for practical reasons, it proves impossible to send the original of the licence to the vessel, it will be sufficient for a copy or fax of the licence to be kept on board.

In isolated cases, the Ministry may issue provisional authorizations of very short duration for vessels whose licence fee has not yet reached the Treasury, but for which the Ministry has proof of payment.

1.3. Licences shall be issued for a minimum of one month.

1.4. The scale of fees for ocean-going freezer trawlers (deep-water fishing) shall be ECU 4 per GRT per month.

B. FISHING ZONES

Ocean-going freezer trawlers shall be authorized to fish:

- from 15 nautical miles off the baselines between the Senegal-Mauritania border and latitude 14° 36' 00" Prime N,
- from 40 nautical miles off the baselines between latitude 14° 36' 00" Prime N and the northern Senegal-Gambia border,

- from 25 nautical miles off the baselines between the southern Senegal-Gambia border and the Senegal-Guinea-Bissau border.

C. MINIMUM AUTHORIZED MESH

The minimum mesh size (mesh opening) for midwater trawls is 40 mm. The use of a net to protect the codend of the trawl shall be allowed, provided it has a minimum mesh size of 120 mm, is not closed, and does not obstruct the 40 mm mesh.

D. TECHNICAL INSPECTIONS

Once a year, and whenever there is an alteration in tonnage or a change in fishing category involving the use of different fishing gear, Community trawlers must undergo the inspections provided for in current rules and regulations at the port of Dakar. Such inspections must be completed within 48 hours of the vessel's arrival in the port, provided the competent authorities have been notified in advance.

As an exception from this provision, prior inspections of such vessels may be made in Europe. The shipowner must pay the travel and subsistence costs of two individuals appointed by the appropriate Senegalese authorities to carry out these inspections.

E. LANDING OF CATCH

Ocean-going freezer trawlers may land part of their catch, at international prices.

F. SIGNING-ON OF SEAMEN

Ocean-going freezer trawlers authorized to fish in Senegalese waters under the Agreement shall be required to take on the following numbers of Senegalese seamen:

- four, including two observers as set out in point H, in the case of vessels with a total of 30 or less crew members,
- five, including two observers as set out in point H, in the case of vessels with a total of over 30 crew members.

One of the observers may be replaced by a scientist.

All individual contracts for the recruitment of Senegalese seamen must comply with current Senegalese rules and regulations.

Before licences are issued, the salary of these seamen shall be determined by mutual agreement between the shipowners or their representatives and the ministry responsible for the merchant navy. It shall be paid by the shipowners and shall include the social security applicable to the seamen, including life insurance, accident and sickness cover and IPRES (Institut de prévoyance retraite du Sénégal) contributions.

There shall be no obligation for the vessels to enter a Senegalese port. Shipowners may, however, take the appropriate steps, at their own expense, to transport Senegalese seamen and seamen/observers.

G. STATEMENTS OF CATCH

All ocean-going freezer trawlers authorized to fish in Senegalese waters under the Agreement shall be required to make daily entries in a logbook matching that in Appendix 6 (attached). An extract of that logbook must be forwarded at the end of every voyage to the Direction de l'Océanographie et des Pêches Maritimes, with a copy to the delegation of the Commission of the European Communities in Dakar. Catch statements must be presented no later than the end of the month following the end of a voyage.

H. OBSERVERS

1. When fishing in Senegal's waters, all Community ocean-going freezer trawlers shall accept on board two observers designated by Senegal.
2. The Senegalese authorities shall communicate to the Commission of the European Communities the names of the designated observers.
3. The captain shall facilitate the work of the observers that is additional to actual fishing operations.

4. Owners of ocean-going freezer trawlers shall make a flat-rate payment to the PSPS of ECU 24 for each day an observer spends on board.

I. BY-CATCHES

- demersal fish species: 3 %,
- cephalopods: 0 %,
- crustaceans: 0 %.

J. RADIO COMMUNICATIONS

The captain shall authorize the observer to contact the PSPS (Projet de protection et surveillance des pêches du Sénégal) whenever necessary.

K. BOARDING

The delegation of the Commission of the European Communities in Dakar shall be notified within 48 hours of arrival at the merchant navy base of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement between Senegal and the Community, and of the circumstances and reasons leading to such boarding.

Appendix 1

REPUBLIC OF SENEGAL

MINISTRY RESPONSIBLE

FOR MARITIME FISHING

DIRECTORATE OF OCEANOGRAPHY AND MARITIME FISHING

APPLICATION FORM FOR A FISHING LICENCE

STATEMENT OF CATCH MADE BY VESSELS USING LONG LINES AND POTS

STATEMENT OF CATCH BY BOTTOM TRAWLERS

STATEMENT OF CATCH BY TUNA VESSELS

STATEMENT OF CATCH FOR TUNA SEINERS

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