

PROTOCOL establishing the fishing possibilities and the financial compensation provided for in the agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 1997 to 15 June 2001

Article 1

For a period of four years from 16 June 1997, the fishing possibilities granted pursuant to Article 4 of the Agreement shall be as follows:

1. (a) freezer shrimp trawlers: 9 600 gross registered tonnes (grt) per year;
(b) freezer fin-fish and cephalopod trawlers: 3 000 gross registered tonnes per year;
2. freezer tuna seiners: 37 vessels;
3. pole-and-line tuna vessels and surface longliners: 52 vessels.

Article 2

1. The financial compensation referred to in Article 9 of the Agreement shall be, for the period referred to in Article 1, ECU 34 000 000, payable in four annual instalments of ECU 8 500 000 each.
2. The use to which this compensation is put shall be the sole responsibility of the Government of the Republic of Guinea-Bissau.
3. The compensation shall be paid into an account opened with a financial institution or any other body designated by Guinea-Bissau.

Article 3

At the request of the Community, the fishing possibilities referred to in point 1 of Article 1 may be increased by successive instalments of 1 000 grt per year, if fishing resources permit. In that case, the financial compensation referred to in Article 2 shall be increased proportionately, *pro rata temporis*.

Article 4

During the period referred to in Article 1, the Community shall also contribute the amount of ECU 300 000 towards the financing of a Guinea-Bissau scientific or technical programme to improve information on the fishery resources with the exclusive economic zone of Guinea-Bissau and the functioning of the fisheries research laboratory.

The Guinea-Bissau authorities shall send the Commission a summary report on the way that amount is used.

That sum shall be made available to the Government of Guinea-Bissau and paid into the account specified by the Guinea-Bissau authorities.

Article 5

The two Parties agree that improving the skills of those involved in sea fishing is a vital element in the success of their cooperation. To that end, during the period referred to in Article 1, the Community shall make available to the Guinea-Bissau authorities 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 State linked with the Community by a cooperation agreement. The total cost of the awards may not exceed ECU 400 000. At the request of the Guinea-Bissau authorities, part of that sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries or the organization of seminars on fishing in Guinea-Bissau. The sum shall be paid into the account specified by the Ministry of Fisheries. The Ministry of Fisheries shall administer all the study awards and other activities financed in this way.

Article 6

The Community shall also contribute to funding the following programmes:

- institutional support for the Ministry of Fisheries: ECU 200 000,
- aid for small-scale fishing: ECU 300 000,
- maritime surveillance: ECU 800 000.

The Guinea-Bissau authorities shall send the Commission a summary report on the way those amounts are used.

Those sums shall be made available to the Government of Guinea-Bissau and shall be payable, as and when they are used, into the account specified by the Guinea-Bissau authorities.

Article 7

Should the Community fail to make the payments provided for in Articles 2, 4, 5 and 6, the application of this Protocol may be suspended.

Article 8

The Annex to the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau is hereby repealed and replaced by the Annex hereto.

Article 9

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 16 June 1997.

ANNEX

CONDITIONS GOVERNING FISHING BY COMMUNITY VESSELS IN GUINEA-BISSAU'S FISHING ZONE

A. Licence application and issuing formalities

1. The relevant Community authorities shall present to the Ministry of Fisheries of the Republic of Guinea-Bissau, via the Commission Delegation in Guinea-Bissau, an application for each vessel wishing to fish under the Agreement, at least 20 days before the date on which the requested term of validity commences.

Applications shall be made on the forms provided for that purpose by the Government of the Republic of Guinea-Bissau, specimens of which are attached (Appendix 1).

2. Licence applications shall be accompanied by proof of payment of the fee for the licence's term of validity, the amount laid down in F.2 below and, in the case of freezer trawlers, a copy of the document drawn up by the Member State certifying the vessel's tonnage in grt. The fee shall be paid into the account specified by the Guinea-Bissau authorities. The original of the licence shall be issued to the master of the vessel or to his representative. The Delegation of the Commission of the European Communities in Bissau shall be notified of each licence issued.

3. The fees shall include all national and local taxes with the exception of port fees and charges for the provision of services.

4. The following twelve-month periods shall be used for determining the validity of the licences:

No licence may begin during a twelve-month period and end during the following twelve-month period.

5. Licences shall be issued for specific vessels and shall not be transferable. However, at the request of the Community and where force majeure is proven, a vessel's licence shall be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The new licence shall take effect on the day that the vessel's owner returns the cancelled licence to the Ministry of Fisheries of the Republic of Guinea-Bissau. The Delegation of the Commission of the European Communities in Bissau shall be informed of the licence transfer.

6. Provisions applicable to freezer trawlers

6.1. Licences must be kept on board at all times.

6.2. Before licences are issued, vessels must put into the port of Bissau once in each twelve-month period so that the inspection required under the regulations can be carried out. This inspection shall be carried out only by duly authorized persons and must take place within 48 working hours of the vessel's arrival in port if notice of arrival has been given at least 48 hours beforehand. If the licence is not issued within the 48-hour limit for reasons ascribable to the Ministry of Fisheries, any costs arising shall be borne by the latter. If the vessel remains in port after the licence is issued, the shipowner shall bear the relevant costs and taxes.

Should a new licence be allocated in that same twelve-month period, the vessel shall not be required to undergo inspection or to put into the port. However, any costs arising from the issuing of the licence shall be borne by the shipowner.

6.3. Article 4 (3) of the Agreement notwithstanding, licences shall be issued for three, six or twelve months and shall be renewable. Utilization of the fishing possibilities granted under Article 1 of the Protocol shall be calculated with regard to the term of validity of licences. In the first and last twelve-month periods, licences shall be payable in proportion to their term of validity.

6.4. The fees for trawlers shall be as follows in ecus per grt:

- in the case of licences for 12 months:

188 for fin-fish trawlers,

209 for cephalopod trawlers,

266 for shrimp trawlers;

- in the case of licences for six months:

97 for fin-fish trawlers,

108 for cephalopod trawlers,

137 for shrimp trawlers;

- in the case of three-month licences:

50 for fin-fish trawlers,

55 for cephalopod trawlers,

70 for shrimp trawlers.

These fees shall be increased by 5 % per year as from the fourth twelve-month period of application of the Protocol.

7. Provisions applicable to tuna vessels and surface longliners

7.1. Licences must be kept on board at all times; however, once the Commission of the European Communities has informed the Guinea-Bissau authorities that the advance payment has been made, the latter shall enter the vessel in question in the register of vessels authorized to fish that is sent to be Guinea-Bissau surveillance authorities. Pending receipt of the original of the licence, a copy of the licence drawn up may be sent by fax for keeping on board.

7.2. Licences shall cover twelve-month periods. The fees shall be ECU 20 per tonne per year caught within Guinea-Bissau's fishing zone.

7.3. Licences shall be issued following payment to the Ministry of Fisheries of a lump sum of ECU 1 800 per year for each tuna seiner, ECU 300 per year for each pole-and-line tuna vessel and ECU 500 per year for each surface longliner, covering the fees for:

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

7.4. The final statement of the fees due for the fishing year shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made by each shipowner and confirmed by the scientific institutes responsible for verifying catch data (ORSTOM and IEO - Spanish Institutes of Oceanography). The statement shall be forwarded simultaneously to the Ministry of Fisheries and to the shipowners. Any additional charges shall be paid by the shipowners to the Guinea-Bissau Ministry of Fisheries by 31 May of the following year at the latest, into the account referred to in A.2 above. However, if the final statement is lower than the abovementioned amount, the resulting balance shall not be reimbursed.

B. Statements of catch

All Community vessels authorized under the Agreement to fish in Guinea-Bissau's fishing zone are required to forward a statement of their catches to the Ministry of Fisheries, with a copy to the Delegation of the Commission of the European Communities in Guinea-Bissau, in accordance with the following:

- for trawlers, statements of catch shall be made out according to the specimen attached hereto (Appendix 2). Statements of catch shall be drawn up each month and presented at least once each quarter;
- for tuna seiners, pole-and-line tuna vessels and surface longliners, a fishing log shall be kept, in accordance with Appendix 3, for each fishing period spent in Guinea-Bissau's fishing zone. The form must be sent every six months to the Ministry of Fisheries via the Delegation of the Commission of the European Communities in Guinea-Bissau. Where no fishing operations are carried out in Guinea-Bissau's fishing zone, the shipowners are nevertheless required to forward a statement to the effect that no catch has been made;
- forms must be completed legibly, giving in particular the monthly totals per species, and must be signed by the master of the vessel.

Should these provisions not be adhered to, the Government of Guinea-Bissau reserves the right to suspend and, in the event of a second offence, not to renew the licence of the offending vessel until the formality has been complied with.

C. By-catches

1. Fin-fish trawlers may not hold on board crustaceans or cephalopods accounting per species for more than 9 % of their total catch in Guinea-Bissau's fishing zone.

Cephalopod trawlers may not hold on board crustaceans accounting for more than 9 % of their total catch in Guinea-Bissau's fishing zone.

2. Pole-and-line tuna vessels shall be authorized to fish for live bait with a view to carrying out their fishing activities in Guinea-Bissau's fishing zone.

D. Fish landings

With a view to security of fish supplies for the local market, trawlers shall undertake to land fish at the market price. The rules governing technical matters and financing shall be laid down by the Joint Committee, which shall meet in Bissau on 31 December 1997 at the latest.

E. Signing-on of seamen

Owners who have been issued fishing licences under the Agreement shall contribute to the practical vocational training of Guinea-Bissau nationals, subject to the conditions and limits set out below:

1. Each trawler owner shall undertake to employ:
 - three seamen/fishermen on vessels of less than 250 grt,
 - four seamen/fishermen on vessels of 250 to 400 grt,
 - five seamen/fishermen on vessels of more than 400 grt.

However, Community shipowners shall strive to increase the complement of Guinea-Bissau seamen signed on to 33 % of the non-officer crew engaged in fishing activities.

Such seamen shall be selected by shipowners from a list to be drawn up by the Guinea-Bissau Joint Technical Commission;

2. Owners of tuna vessels and surface longliners shall undertake to employ Guinea-Bissau nationals, subject to the conditions and limits set out below:

- for the fleet of tuna seiners, seven Guinea-Bissau seamen shall be signed on permanently in Guinea-Bissau's fishing zone,
- for the fleet of pole-and-line tuna vessels and surface longliners, seventeen Guinea-Bissau seamen shall be signed on for the tuna fishing season in Guinea-Bissau's fishing zone, all of them to be assigned to different vessels.

3. The wages of these seamen/fishermen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the Ministry of Fisheries; the wages shall be borne by the shipowners and must include the social security contributions covering the seamen (including life, accident and health insurance).

Should the seamen not be signed on, the owners of tuna seiners, pole-and-line tuna vessels and surface longliners shall be obliged to pay as soon as possible a lump sum equivalent to the wages of seamen not signed on for the fishing year.

That sum shall be used for the training of seamen/fishermen in Guinea-Bissau and shall be paid into an account specified by the Guinea-Bissau authorities.

F. Observers on board

1. The observer's task shall be to check on fishing activities in Guinea-Bissau's fishing zone. He shall be offered every facility needed to carry out his duties, including access to premises and documents. He must not remain on board any longer than is necessary to carry out his duties. The master of the vessel shall facilitate the work of the observer, who shall be accorded the conditions enjoyed by officers of the vessel. The salary and the social security contributions of the observer shall be borne by the Government of Guinea-Bissau.

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

2. All trawlers shall take on board an observer designated by the Ministry of Fisheries. As a contribution to the costs arising from the presence of the observer on board, together with the licence fee the shipowner shall pay the Guinea-Bissau authorities the sum of ECU 8 per grt per year pro rata temporis for each vessel fishing in Guinea-Bissau waters.

3. Tuna vessels and surface longliners shall take an observer on board at the request of the Ministry of Fisheries.

In such cases, the port of embarkation shall be determined by mutual agreement between the Ministry of Fisheries and the shipowners or their representatives.

G. Inspection and monitoring

Community vessels fishing in Guinea-Bissau's fishing zone shall permit and assist any Guinea-Bissau official responsible for inspection and monitoring to board the vessel and carry out his duties on board. The official must not remain on board any longer than is necessary to verify catches by random checks and to conduct any other inspection relating to fishing activities.

H. Fishing zones

Freezer trawlers as referred to in Article 1 of the Protocol shall be authorized to fish in waters beyond 12 nautical miles from the base lines.

I. Meshes authorized

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

- a) 70 mm for fin-fish vessels,
- b) 70 mm for cephalopod vessels,
- c) 40 mm for shrimp vessels,
- d) 16 mm for fishing for live bait.

However, shipowners shall have until 31 December 1997 to bring their gear into line with the new standards.

Outrigger fishing shall be authorized.

J. Entering and leaving the zone

Community vessels fishing under the Agreement in Guinea-Bissau's fishing zone shall report the date and time and their position to the radio station of the Ministry of Fisheries on entering and leaving Guinea-Bissau's fishing zone.

When licences are issued, the Ministry of Fisheries shall inform the shipowners of the call sign, frequency and working hours of the station.

Where they cannot communicate this information by radio, vessels may use alternative means, such as telex, telegram or fax (numbers 20 11 57, 20 19 57 and 20 16 84).

K. Procedure in case of boarding

The authorities of the Commission of the European Communities in Guinea-Bissau shall be notified within 48 hours of any fishing vessels flying the flag of a Member State of the Community boarded within Guinea-Bissau's fishing zone and shall at the same time receive a summary report of the circumstances surrounding and the reasons leading to the boarding.

Before any judicial proceedings are initiated, an attempt shall be made to settle the alleged infringement through an administrative procedure. This procedure shall be completed no later than three working days after the boarding.

If the case cannot be settled by administrative procedure and has to be brought before a competent judicial body, the competent authority shall set a bank security within forty-eight

hours of completion of the administrative procedure, pending the judicial decision. The security shall not exceed the maximum fine provided for under national legislation in respect of the alleged infringement.

The bank security shall be released by the competent authority once the master of the vessel is acquitted by judicial decision.

The vessel and its crew shall be released:

- either on fulfilment of the obligations arising from the administrative procedure, or
- once the bank security has been lodged.

Appendix 1

APPLICATION FORM FOR A FISHING LICENCE

Appendix 2

STATISTICS ON CATCH AND ACTIVITY

Appendix 3

TUNA BOATS FISHING LOG BOOK