

Protocol defining for the period 18 January 1999 to 17 January 2002 the fishing opportunities and the financial contribution provided for by the agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles
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PROTOCOL

defining for the period 18 January 1999 to 17 January 2002 the fishing opportunities and the financial contribution provided for by the agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

Article 1

Pursuant to Article 2 of the Agreement, and notwithstanding Article 12 of the Agreement relating to further periods of the Agreement, licences to fish simultaneously in Seychelles waters shall be granted to 47 ocean-going tuna seiners and 32 surface longliners for a period of three

years beginning on 18 January 1999.

Article 2

The financial compensation referred to in Article 6 of the Agreement shall be fixed at EUR 2 300 000 per year. The first instalment shall be paid by 31 October 1999 and the other two on 31 May 2000 and 31 May 2001. The financial compensation corresponds to a catch of 46000 tonnes of tuna per year in Seychelles' waters. If the catch by Community vessels in Seychelles' waters exceeds 46000 tonnes, the Community shall increase the financial compensation proportionately.

Article 3

During the period referred to in Article 1, the European Community shall contribute an additional EUR 3450000 to finance measures described below, allocated as follows:

- EUR 1950000 for scientific and technical programmes in Seychelles to gain greater knowledge of fish stocks concerning the region of the Indian Ocean surrounding the Seychelles islands, particularly in respect of highly migratory species, and the purchase or maintenance or both, as Seychelles may think fit, of equipment to improve the administrative structure relating to fisheries in Seychelles;
- EUR 300000 for study grants and practical training courses in the various scientific, technical and economic fields linked to fishing and for attending international meetings relating to fisheries;
- EUR 450000 for setting up and developing a satellite tracking system;
- EUR 750000 for the setting up of a fund aiming at developing the local longliners fleet.

These measures shall be decided by mutual agreement between the competent authorities of Seychelles and the European Community.

All the amounts indicated shall be paid as they are used into an account indicated by the authorities of Seychelles.

The Seychelles Fisheries Agency (SFA) shall transmit an annual report on the implementation of these measures and the results achieved to the Delegation of the Commission of the European Communities in charge of Seychelles, three months after the anniversary date of the Protocol.

The Commission of the European Communities reserves the right to request additional information on these results from the SFA and to review the payments concerned in the light of the actual implementation of the measures.

Article 4

If the European Community fails to make the payments provided for in Articles 2 and 3, the implementation of this Protocol may be suspended.

Article 5

The Protocol and Annex I, dated 17 January 1996, to the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles, which came into force on 28 October 1987, are hereby repealed and replaced by this Protocol and Annex I.

Article 6

This Protocol and Annex I shall enter into force on the date of their signature.

This Protocol and Annex I shall apply from 18 January 1999.

ANNEX

"ANNEX I

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN SEYCHELLES' WATERS

1. Licence application and issuing formalities

The procedure for applications for, and issue of, licences enabling Community vessels to fish in Seychelles' waters shall be as follows:

1.1. the Commission of the European Communities shall present to the Seychelles Fishing Authority, via its representative for Seychelles, an application, made by the shipowner, for each vessel that wishes to fish under this Agreement, at least 20 days before the date of commencement of the period of validity requested. The application shall be made on the form provided for that purpose by Seychelles, a specimen of which is annexed as Appendix 1;

1.2. every licence shall be issued for one designated vessel. At the request of the Commission of the European Communities, the licence for a vessel may, and, in cases of force majeure, will be replaced by a licence for another Community vessel;

1.3. the licences shall be delivered by the authorities of Seychelles to the shipowners, or their representatives or agents. The representative of the Commission of the European Communities shall be notified of the licences granted by the authorities of Seychelles;

1.4. the licence document must be held on board at all times; however, on reception of notification of payment of the advance sent to the Seychellese authorities by the Commission of the European Communities, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the Seychelles authorities responsible for fisheries inspection. A copy of the said licence may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board;

1.5. the authorities of Seychelles shall communicate before the date of entry into force of the Agreement the arrangements for payment of the licence fees, and in particular the details of the bank accounts and the currencies to be used.

2. Validity of licences and payment

2.1. Licences shall be valid for a period of one year. They are renewable.

2.2. The fee shall be set at EUR 25 per tonne caught within Seychelles' waters.

Licences shall be issued following advance payment to Seychelles of a lump sum, per year and for each vessel, of EUR 7500 for tuna seiners, EUR 1375 for surface longliners of more than 150 GRT and EUR 1000 for surface longliners of 150 GRT or less, equivalent to the fees for respectively 300 tonnes, 55 tonnes and 40 tonnes caught within Seychelles' waters per year.

2.3. Surface longliners shall, before the starting of their fishing campaign in Seychelles' waters and at the end of it, call into Port Victoria to check the catches held on board. However, at the request of the shipowner, the Seychelles authorities might exempt the vessel of that requirement. Fishing licences for surface longliners shall authorise the fishing of not only tuna but also swordfish, marlin and sailfish.

2.4. The Seychelles Fishing Authority (SFA) will draw up a statement of fees due in respect of the previous calendar year on the basis of catch declarations by Community vessels and other information in the possession of the SFA.

The statement will be sent to the Commission before 31 March of the current year, which transmitted it before 15 April simultaneously to shipowners and national authorities of the concerned Member States.

Where the shipowners do not agree with the statement submitted by the SFA, they may consult the scientific institutes competent for verifying catch statistics such as Institut Français de Recherche Scientifique pour le Développement en Coopération (ORSTOM) or the Spanish Oceanographical Institute (IEO), and thereafter discuss together with the Seychelles authorities to establish the final statement before 15 May of the current year. In the absence of observations by the shipowners at that date, the statement submitted by the SFA is considered as the final one. The Member States will notify the Commission of the final statement relating to their own fleet.

Shipowners shall make any additional payment above the advance to the Seychelles fisheries authorities at the latest by May 31 of the same year.

Where the final statement is less than the abovementioned advance, the balance shall not be recoverable by the shipowner.

3. Declaration of catches

3.1. The Community vessels licensed to fish in Seychelles' waters shall complete a fishing form as set out in Appendix 2 and 3, for each fishing trip it undertakes in Seychelles' waters. In the absence of catches, the fishing forms shall still be filled in.

3.2. For the periods for which a Community vessel referred to in point 3.1. was not present in Seychelles' waters, it shall provide the abovementioned fishing form with the notation Outside Seychelles' EEZ.

3.3. As far as the release of the fishing forms referred to in points 3.1. and 3.2. is concerned, the Community vessels shall:

- in the case they call into Port Victoria, submit the completed forms to the Seychelles authorities within five days of arrival, or in any event before it leaves port, whichever occurs first;
- in any other case, send the completed forms to the Seychelles authorities within 14 days of arrival in any port other than Victoria.

Copies of these fishing forms must also be sent to the scientific institutes referred to in point 2.4.

3.4. In the event of failure to comply with these provisions, the sanctions referred to in point 10 will be applicable.

4. Observers

Tuna seiner vessels shall, at the request of the Seychelles' authorities, take on board a qualified observer designated by the said authorities in order to check the position of the vessel and catches made in Seychelles' waters. Observers shall have all facilities necessary for the performance of these duties, including access to places, documents and communication equipments. An observer must not be present for longer than the time required to fulfil his duties. Observers shall be granted officer status while on board. Should a tuna seiner with a Seychellois observer on board leave Seychelles' waters, every step will be taken to ensure that the observer returns to Seychelles as soon as possible, at the shipowners' expense.

5. Employment of seamen

Each tuna seiner shall take on board at least two Seychelles seamen designated by the Seychelles' authorities, in agreement with the shipowners, during its fishing campaign. The employment contracts of the seamen shall be drawn up in Victoria between the shipowners' representatives and the seamen in agreement with the Seychelles Ministry responsible for Employment. This contract shall cover the social security arrangements applicable to the seamen including life, accident and sickness insurance.

6. Landing

Tuna seiners landing in the port of Victoria will endeavour to make their by-catches available to the Seychellois authorities at the local market prices. Furthermore the Community tuna seiners shall participate in supplying tuna to the Seychelles canneries at international market prices.

7. Communications

Within three hours of each entry and exit of the zone and every three days during their fishing activities in Seychelles' waters, Community vessels shall communicate directly to the Seychelles' authorities, in priority by fax or, in the event of failure, by radio their position and the volume of catches held on board.

The number of the fax and radio frequency shall be indicated on the licence.

A copy of the communications by fax or a record of the radio communications referred to above shall be kept by the Seychelles' authorities and the shipowners until the approval by both parties of the final statement of the fees referred to in point 2.4.

In the event of failure to comply with these provisions, the sanctions referred to in point 10 will be applicable.

8. Fishing zone

To avoid any adverse effect on small-scale fisheries in Seychelles' waters, fishing by Community vessels shall not be authorised in the zones defined in Seychelles regulations nor within three miles around any fish-aggregating device placed by the Seychelles' authorities, the geographical positions of which have been communicated to the shipowners' representative or agent.

9. Port equipment and use of supplies and services

Community vessels shall endeavour to procure in Seychelles all supplies and services required for their operations. The Seychelles' authorities will lay down, in agreement with the shipowners, the conditions for using port equipment and, if necessary, supplies and services.

10. Sanctions

Failure to observe any one of the above rules, the management and conservation of living resources measures or the Seychelles legislation may be penalised by suspension, revocation or non-renewal of the vessel's fishing licence. Suspension or revocation of a fishing licence shall be regarded as force majeure for the purpose of point 1.2. of this Annex.

The Commission of the European Communities will immediately be fully informed of any suspension or revocation and of all the relevant facts related thereto.