

Protocol establishing the fishing possibilities and the financial compensation provided for in the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast for the period 1 January 1998 to 31 December 1999

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Article 1

For a period of two years from 1 January 1998, the fishing possibilities granted under Article 2 of the Agreement shall be as follows:

1. fin-fish and cephalopod trawlers: 4 000 gross registered tonnes (grt) per year;
2. shrimp trawlers: 1 000 gross registered tonnes (grt) per year;
3. freezer tuna seiners: 33 vessels;
4. pole-and-line tuna vessels: 13 vessels;
5. surface longliners: 28 vessels.

Where appropriate and where the state of resources so permits, the Joint Committee provided for in Article 10 of the Agreement shall consider including new categories of fish and shall lay down the technical and financial conditions under which they can be fished by Community vessels.

Article 2

1. The financial compensation referred to in Article 8 of the Agreement shall amount to ECU 2 800 000 for the first year (of which ECU 1 400 000 by way of a financial consideration and ECU 1 400 000 for the measures listed in Article 4 of the current Protocol) and ECU 3 700 000 for the second year (of which ECU 1 850 000 by way of a financial consideration and ECU 1 850 000 for the measures listed in Article 4 of this Protocol) for the fishing possibilities listed in Article 1. That financial consideration shall be payable by 30 June each year at the latest.
2. The use to which the financial consideration is put shall be the sole responsibility of the Government of the Republic of Guinea.
3. The financial consideration shall be paid into an account specified by the Government of the Republic of Guinea and opened with the public treasury.

Article 3

At the request of the Community, the fishing possibilities established in Article 1(1) may be increased by successive instalments of 1 000 grt a year. In that case, the financial consideration referred to in Article 2 shall be increased proportionately, pro rata temporis.

Article 4

Of the overall financial compensation established in Article 2(1), the following measures shall be financed to the amount of ECU 1 400 000 in the first year and ECU 1 850 000 in the second year, according to the following breakdown:

1. scientific and technical programmes to improve knowledge of fishery and biological resources within Guinea's fishing zone: ECU 450 000;
2. support for fishery surveillance bodies: ECU 800 000;
3. support for artisanal fishing: ECU 320 000;
4. institutional support for the Ministry of Fisheries: ECU 800 000;
5. awards for study, practical training and seminars in the various scientific, technical and economic disciplines relating to fisheries: ECU 390 000;
6. Guinea's contribution to international fisheries organisations: ECU 100 000;
7. costs of Guinean delegates' participation in international meetings on fisheries: ECU 390 000.

The measures and the annual amounts allocated thereto shall be decided on by the Ministry of

Fisheries, which shall inform the Commission thereof.

The annual amounts shall be made available to the bodies concerned by 30 June each year at the latest. The Government of the Republic of Guinea shall provide the bank account numbers to be used for such payments.

The Ministry of Fisheries shall forward an annual report to the delegation of the European Commission on the implementation of the measures and the results obtained. The Commission reserves the right to ask the Ministry of Fisheries for any additional information on the results and to reconsider the payments concerned should the measures not be implemented.

Article 5

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

Article 6

The Annex to the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast is hereby repealed and replaced by the Annex hereto.

Article 7

This Protocol shall enter into force on the date on which it is signed.
It shall apply from 1 January 1998.

ANNEX

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

A. Licence application and issuing formalities

At least 30 days before the date on which the requested term of validity commences, the competent Community authorities are to present an application for each vessel that is to be used for fishing under the Agreement to the Ministry of Fisheries via the delegation of the European Commission in Guinea.

The applications are to be made out using the forms provided for that purpose by the Ministry of Fisheries, a specimen of which is attached hereto (Appendix 1).

Licence applications are to be accompanied by proof of payment of the fee covering the licence's term of validity. Payment is to be made into an account opened with the public treasury of Guinea.

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

Within 30 days of receipt of proof of payment as referred to above, the licences for all vessels will be issued by the Ministry of Fisheries to the shipowners or their representatives via the delegation of the European Commission in Guinea.

The following annual periods serve to determine the term of validity of licences:

- first period: 1 January to 31 December 1998,
- second period: 1 January to 31 December 1999.

Licences cannot commence running during one annual period and expire during the following annual period.

Licences are issued for specific vessels and are not transferable. However, at the request of the Community and where force majeure is proven, a vessel's licence will be replaced by a new

licence for another vessel whose features are similar to those of the first vessel. The owner of the vessel to be replaced is to return the cancelled licence to the Ministry of Fisheries via the delegation of the European Commission in Guinea.

The new licence must state:

- the date of issue,
- the term of validity of the new licence, covering the period from the date of arrival of the replacement vessel to the date of expiry of the licence of the replaced vessel.

In the event of replacement, no fee as referred to in Article 5(2) of the Agreement is due for the unexpired period of validity.

Licences must be held on board at all times.

I. Provisions applicable to trawlers

1. Vessels must put into the port of Conakry once a year before licences are issued so that the regulation inspection can be carried out. This inspection is to be carried out by duly authorised persons only and must take place within 24 working hours of the vessel's arrival in port, providing notice of arrival has been given at least 48 working hours in advance. Where licences are renewed within the calendar year, the vessels need not undergo a second inspection.

The costs of technical inspections are to be borne by the shipowners and cannot exceed ECU 250 per vessel per year.

2. Each vessel must be represented by an agent of Guinean nationality established in Guinea.

3. (a) Licences are issued for three, six or twelve months and are renewable. The term of validity of licences must be taken into account when calculating the utilisation of the fishing possibilities granted under Article 1 of the Protocol.

(b) The fees to be paid by shipowners, expressed in ecus per gross registered tonne (GRT), are as follows:

- for annual licences:

TABLE POSITION

- for six-month licences:

TABLE POSITION

- for three-month licences:

TABLE POSITION

However, an additional fee of ECU 30 per grt per year is payable by vessels failing to land 200 kg of fish per grt per year in accordance with part C.

II. Provisions applicable to tuna vessels and surface longliners

Licences must be kept on board at all times; however, fishing is authorised on receipt of the notification of payment of the advance forwarded by the Commission to the Guinean Ministry of Fisheries. Furthermore, pending receipt of the original of the licence, a copy of the licence drawn up can be sent by fax for keeping on board.

The fees are set at ECU 20 per tonne per year caught within Guinea's fishing zone.

Licences are to 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 of tuna caught per year in the case of pole-and-line tuna vessels,
- 25 tonnes of tuna caught per year in the case of surface longliners.

The final statement of the fees due for the fishing period is to be drawn up by the Commission at the end of each calendar year on the basis of the catch statements made for each vessel and confirmed by the scientific institutes responsible for verifying catch data, such as the Institut Français de Recherche Scientifique pour le Développement en Coopération (Orstom) and the Instituto Español de Oceanografía (IEO), in cooperation with the Centre National des Sciences

Haliéutiques de Boussoura (CNSHB). The statement is to be forwarded simultaneously to the Ministry of Fisheries and to the shipowners. No later than 30 days after the final statement is notified, any additional charges due are to be paid by the shipowners to the Ministry of Fisheries using the account opened with the public treasury of Guinea.

However, if the final statement is lower than the abovementioned advance, the resulting balance will not be reimbursed.

B. Statements of catch

All Community vessels authorised under the Agreement to fish in Guinea's fishing zone are required to declare their catches to the Ministry of Fisheries, with a copy to the delegation of the European Commission in Guinea, as follows:

- trawlers must declare their catches using the specimen statement attached hereto (Appendix 2).

Statements of catch must be drawn up each month and presented at least once each quarter,

- tuna seiners, pole-and-line tuna vessels and surface longliners must keep fishing logs using the form in Appendix 3 for each fishing period spent in Guinea's fishing zone. Within 45 days of the end of the fishing period spent in Guinea's fishing zone, the forms must be sent to the Ministry of Fisheries via the delegation of the European Commission in Guinea.

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

Should this provision not be complied with, the Ministry of Fisheries reserves the right to suspend the licences of offending vessels until the formality has been completed. The delegation of the European Commission in Guinea is to be notified of such cases.

Where applicable, the Joint Committee provided for in Article 10 of the Agreement is to consider equipping Community fishing vessels with facilities for the electronic transmission of data covering fishing operations.

C. Landing of catches

As a contribution towards supplying the local population with fish caught in Guinea's fishing zone, trawlers authorised to fish in Guinea's fishing zone are required to land 200 kg of fish per grt per year free of charge.

Landings may be made individually or collectively, mention being made of the vessels concerned.

D. By-catches

Crustaceans held on board fin-fish trawlers may not account for more than 9 % nor cephalopods for more than 9 % of their total catch in Guinea's fishing zone.

Crustaceans held on board cephalopod trawlers may not account for more than 15 % of their total catch in Guinea's fishing zone.

Fish held on board shrimp trawlers may not account for more than 30 % nor cephalopods for more than 20 % of their total catch in Guinea's fishing zone.

E. Signing-on of seamen

Owners holding fishing licences issued under the Agreement are to contribute to the practical vocational training of Guinean nationals, subject to the conditions and limits set out below:

1. each trawler owner must undertake to employ:

- two Guinean seamen on vessels of up to 200 grt,

- three Guinean seamen on vessels of more than 200 grt but not more than 350 grt,

- four Guinean seamen on vessels of more than 350 grt;

2. for the fleet of tuna seiners, six Guinean seamen must be signed on permanently;

3. for the fleet of pole-and-line tuna vessels, five Guinean seamen must be signed on for the duration of the vessels' actual presence in Guinean waters, all of them to be assigned to different vessels;

4. for the fleet of surface longliners, the shipowners must undertake to employ two Guinean seamen per vessel for the duration of the vessels' actual presence in Guinean waters;

5. the wages of these Guinean seamen are to be fixed before the licences are issued, by mutual agreement between the shipowners or their representatives and the Ministry of Fisheries; the wages are to be paid by the shipowners and must include the seamen's social security contributions (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 are required to pay the Ministry of Fisheries a lump sum equivalent to the wages of the seamen not signed on in accordance with points 2, 3 and 4 above.

That sum is to be used for the training of Guinean sea fishermen and must be paid into an account specified by the Ministry of Fisheries.

F. Observers

1. The observer's task is to check on fishing activities in Guinea's fishing zone and to collect all statistical data on fishing operations by the vessel concerned. Observers must be granted every facility needed to carry out their duties, including access to premises and documents and must in particular be allowed to report fishing data by radio once a week.

2. All trawlers must take on board an observer appointed by the Ministry of Fisheries. Observers must not normally remain on board for more than two trips.

3. At the request of the Ministry of Fisheries, addressed to the European Commission, tuna vessels and surface longliners must take on board an observer, who must not remain on board any longer than is necessary to accomplish his duties.

The masters of vessels must facilitate the work of the observers, who must be accorded the conditions enjoyed by the vessels' officers.

The travelling costs of observers taken on board in foreign ports are to be borne by the shipowner.

4. The wages and social insurance contributions of observers are to be paid by the Ministry of Fisheries.

In the case of trawlers, shipowners are to pay ECU 15 to the Centre National de Surveillance des Pêches (CNSP) for each day an observer spends on board as a contribution towards the expenses arising from the observer's presence on board.

5. Should a vessel with a Guinean observer on board leave Guinea's fishing zone, all steps must be taken for his return to Conakry as soon as possible at the expense of the shipowner.

G. Inspection and monitoring

Community vessels fishing in Guinea's fishing zone must permit and assist any Guinean officials responsible for inspection and monitoring to board the vessel and carry out their duties on board. The officials 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

All the vessels referred to in Article 1 of the Protocol are authorised to fish in waters beyond 10 nautical miles.

I. Meshes authorised

The minimum mesh size authorised for the cod end (mesh stretched) is:

- (a) 40 mm for shrimps;
- (b) 70 mm for cephalopods;
- (c) 70 mm for fin-fish;
- (d) 16 mm for fishing for live bait.

These mesh sizes also apply to trawls used for fishing with outriggers.

J. Entering and leaving the zone

Community vessels fishing under the Agreement in Guinea's fishing zone must report the date and time and their position each time they enter and leave Guinea's fishing zone to the radio station of the Centre National de Surveillance des Pêches (CNSP).

The CNSP will inform the shipowners of the call sign and operating frequencies of the station at the time the licence is issued.

Where they cannot communicate this information by radio, vessels may use alternative means, such as fax (CNSP: No 1-212-4794-885; Ministry of Fisheries: 224-41-35-23).

K. Boarding of vessels

1. The delegation of the European Commission in Guinea must be notified within 48 hours of any fishing vessel flying the flag of a Member State of the Community and operating under an Agreement between the Community and a third country that is boarded within Guinea's fishing zone and must at the same time be sent a summary report of the circumstances surrounding, and the reasons leading to, the boarding.

2. In the case of vessels authorised to fish in Guinean waters, before any measures are considered with regard to the vessel's master or crew or any action is contemplated with regard to its cargo and equipment other than to safeguard evidence relating to the alleged infringement, a conciliation meeting is to be held within 48 hours of receipt of the abovementioned information between the delegation of the European Commission, the Ministry of Fisheries and the inspection authorities, possibly attended by a representative of the Member State concerned.

At the meeting, the parties will exchange any relevant documentation and information, and in particular automatically recorded data showing the vessel's positions during the trip up to the time of boarding, that may help clarify the circumstances surrounding the facts.

The shipowner or his representative is to be informed of the outcome of the meeting and of the meeting and of any measures resulting from the boarding.

3. Before any judicial proceedings are initiated, an attempt must be made to resolve the matter of the alleged infringement by compromise. Should no compromise be reached, that attempt is to be abandoned no later than three working days after the boarding.

4. Should no compromise be reached and the case consequently be brought before a competent judicial body, pending the judgment a bank security payable by the shipowner is to be set by the competent authorities within 48 hours of abandonment of the attempt to reach a compromise.

The security must not exceed the maximum penalty laid down for such an infringement under national law. Where the master of the vessel concerned is not found guilty, the bank security is to be refunded to the shipowner by the competent authorities as soon as the case is settled.

5. The vessel and crew are to be released:

- when the conciliation meeting is closed if the outcome so permits,
- once the obligations arising from the compromise reached have been fulfilled, or
- once the bank security is lodged (in connection with judicial proceedings).

Appendix 1

APPLICATION FORM FOR A FISHING LICENCE

START OF GRAPHIC

For official use only / Remarks

Nationality:...../.....

Licence No:...../.....

Date of signing:...../.....

Date of issue:...../.....

APPLICANT

Name of firm:.....
Trade register No:.....
First name and surname of applicant:.....
Date and place of birth:.....
Occupation:.....
Address:.....
No of employees:.....
Name and address of co-signatory:.....

VESSEL

Type of vessel:..... Registration No:.....
New name:..... Former name:.....
Date and place of construction:.....
Original nationality:.....
Length:..... Beam:..... Hold:.....
Gross tonnage:..... Net tonnage:.....
Type of building materials:.....
Make of main engine:..... Type:..... Rating:.....
Propeller:
Fixed
Variable
Ducted
Transit speed:.....
Call sign:..... Call frequency:.....
List of sounding, navigating and transmission instruments:
Radar
Sonar
Net sonde
VHF
SSB
Net sonde satellite navigation
Other:.....
No of seamen:.....

CONSERVATION

Packed in ice
Ice and refrigeration
Freezing in brine
Dry
Refrigerated sea water
Total refrigerating power:.....
Freezing capacity in tonnes/24 hours:.....
Hold capacity:.....

TYPE OF FISHING

A. Demersal
Inshore demersal
Deep-sea demersal
Type of trawl: Cephalopods

Shrimps

Fish

Length of trawl:..... Headline:.....

Mesh size in the body:.....

Mesh size in the wings:.....

Speed of trawling:.....

B. Deep-sea pelagic (tuna)

Pole and line

No of poles and lines

Seine

Length of net:..... Depth of net:.....

No of tanks:..... Capacity in tonnes:.....

C. Longlines and pots

Surface

Bottom

Length of lines:..... No of hooks:.....

No of lines:.....

No of pots:.....

SHORE INSTALLATIONS

Address and permit No:.....

Name of firm:.....

Activities:.....

Domestic wholesale fish trade

Export

Type and No of wholesale trader's card:.....

Description of processing and conservation plant:

.....

No of employees:.....

NB: Indicate affirmative answers by a tick in the appropriate box.

Technical remarks

Authorisation of the Ministry of Fisheries

Appendix 2

OFFICE OF THE SECRETARY OF STATE FOR FISHERIES

STATISTICS ON CATCH AND ACTIVITY

Appendix 3

ICCAT LOGBOOK for TUNA FISHERY Longline