

Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon - Protocol setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon

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THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community', and  
THE GABONESE REPUBLIC,

CONSIDERING, on the one hand, the spirit of cooperation resulting from the Lomé convention and, on the other, the good cooperation relations between the Community and the Gabonese Republic;

CONSIDERING the wish of the Gabonese Republic to promote the rational exploitation of its fishery resources by means of intensified cooperation;

RECALLING that, in respect in particular of sea fishing, the Gabonese Republic exercises its sovereignty or jurisdiction over a zone extending up to 200 nautical miles from its coast;

TAKING INTO ACCOUNT the United Nations Convention on the Law of the Sea, signed by both Parties;

AFFIRMING THAT the exercise of sovereign rights by coastal states in waters under their jurisdiction for the purpose of exploiting, conserving and managing living resources must be conducted in accordance with principles of international law;

DETERMINED TO conduct their relations in a spirit of mutual trust and respect for each other's interests in the sphere of sea fishing as enshrined in the Lomé Convention;

DESIROUS OF establishing the terms and conditions governing fishing activities of common interest to both Parties,

HAVE AGREED AS FOLLOWS:

#### Article 1

The purpose of this Agreement is to establish the principles and rules which will in future govern, in all respects, the fishing activities of vessels flying the flags of Member States of the Community, hereinafter referred to as 'Community vessels', in the waters over which the Gabonese Republic has sovereignty or jurisdiction in respect of fisheries, hereinafter referred to as 'Gabon's fishing zone'.

#### Article 2

1. The Gabonese Republic hereby undertakes to authorise the pursuit of fishing activities by Community vessels in its fishing zone in accordance with this Agreement, particularly the Annex hereto.
2. The fishing activities governed by this Agreement shall be subject to the laws and regulations in force in the Gabonese Republic.

#### Article 3

1. The Community hereby undertakes to take all appropriate steps to ensure that its vessels observe the provisions of this Agreement and the rules and regulations governing fishing in Gabon's fishing zone.
2. The Gabonese authorities shall notify the European Commission of all amendments to the said rules and regulations before they are applied.
3. The steps taken by the Gabonese authorities to regulate fishing in the interests of the conservation of fishery resources shall be based on objective and scientific criteria. They shall apply without discrimination to Community vessels, without prejudice to agreements concluded between developing countries within a single geographical region, including reciprocal fisheries

agreements.

#### Article 4

1. Fishing activities by Community vessels in Gabon's fishing zone under this Agreement shall be subject to possession of a fishing licence issued at the Community's request by the Gabonese authorities.
2. The Gabonese authorities shall issue fishing licences within the limits laid down by category of vessel in the Protocol attached to this Agreement.
3. The issue of licences shall be subject to payment of a fee by the shipowners concerned.
4. The procedure for licence applications, the fees payable and arrangements for payment shall be as set out in the Annex.

#### Article 5

The Contracting Parties undertake to coordinate either directly or within international organisations their efforts to ensure the management and conservation of living resources in the central east Atlantic, and to facilitate the relevant scientific research.

#### Article 6

The vessels authorised under the terms of this Agreement to fish in Gabon's fishing zone shall be obliged to send their statements of catch to the Gabonese authorities, in accordance with the provisions set out in the Annex.

#### Article 7

In return for the fishing opportunities granted under Article 2, the Community shall make a financial contribution to the Gabonese Republic in accordance with the conditions and procedure set out in the Protocol attached to this Agreement, without prejudice to financing accorded to the Gabonese Republic under the Lomé Convention.

#### Article 8

In the event of any dispute over the interpretation or application of this Agreement, consultations shall be held between the Parties.

#### Article 9

A Joint Committee shall be set up to ensure that this Agreement is applied correctly. The Committee shall meet, alternately in the Gabonese Republic and the Community, at the request of either of the Contracting Parties.

#### Article 10

Should the Gabonese authorities decide, as result of developments in the state of stocks, to take measures to conserve fishery resources which affect the activities of Community vessels, consultations shall be held between the Parties in order to adapt the Annex and Protocol. These consultations shall be based on the principle that any substantial reduction of the fishing opportunities laid down in the Protocol must entail a proportionate reduction in the financial compensation payable by the Community.

#### Article 11

Nothing in this Agreement shall affect or prejudice in any manner whatsoever the views of either Party with respect to any matter relating to the Law of the Sea.

#### Article 12

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing

the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Gabonese Republic.

#### Article 13

The Protocol and the Annex constitute an integral part of this Agreement.

#### Article 14

This Agreement shall be concluded for an initial period of five years commencing from the date of its entry into force. Unless one of the Parties ends it by giving notice to that effect six months before the end of this five-year period, it shall be tacitly renewed for further periods of two years, unless denounced by notice given at least three months before the end of any such two-year period.

The Parties shall enter into negotiations in the event of either of them denouncing this Agreement.

Before the end of the period of validity of the current Protocol, the Parties shall hold negotiations to establish by agreement what amendments or additions to the Annex or Protocol are required.

#### Article 15

This Agreement, drawn up in duplicate in the Danish, German, Greek, English, Spanish, Finnish, French, Italian, Dutch, Portuguese and Swedish languages, each of these texts being equally authentic, shall enter into force on the date of its signature.

Done at Libreville, 1 April 1998.

For the European Community

For the Gabonese Republic

PROTOCOL setting out the fishing opportunities and financial compensation provided for in the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon

#### Article 1

From the entry into force of the Agreement and for a period of three years, fishing opportunities pursuant to Article 2 of the Agreement shall be as follows:

- freezer tuna seiners: 42 vessels,
- surface longliners: 33 vessels.

#### Article 2

1. The financial compensation referred to in Article 7 of the Agreement shall be fixed at ECU 270 000 per year, to be paid not later than 31 December each year.

2. This financial compensation shall cover catches of 9 000 tonnes of tuna per year in Gabonese waters. If the average amount of tuna caught each year under this Protocol by Community vessels in Gabon's fishing zone exceeds this quantity, the amount of the financial compensation shall be increased by ECU 50 per additional tonne.

3. The financial compensation shall be paid into account No 47069 X, 'Pêche Maritime' (Sea Fisheries) in the name of the Public Treasury of the Gabonese Republic.

4. The use to which the compensation is to be put shall fall within the exclusive competence of the Government of the Gabonese Republic.

#### Article 3

During the period covered by the Protocol, the Community shall contribute an additional ECU 1 215 000 to financing the measures described below, allocated as follows:

1. ECU 200 000 for scientific and technical programmes to promote better understanding of fisheries and living resources in Gabon's fishing zone;
2. ECU 455 000 to the project for the protection and surveillance of fishing zones;
3. ECU 355 000 for institutional support to the administrative department responsible for fisheries;
4. ECU 105 000 for study grants and practical training courses in the various scientific, technical and economic fields linked to fishing;
5. ECU 50 000 for the Gabonese Republic's contributions to international fisheries organisations;
6. ECU 50 000 for the expenses of Gabonese delegates participating in international meetings concerning fisheries.

These measures shall be decided by mutual agreement between the competent authorities of the Gabonese Republic and the European Commission.

All the amounts indicated shall be paid into account No 47069 X, 'Pêche Maritime' (Sea Fisheries), except those referred to in points 4 and 6, which shall be paid as they are used.

The Gabonese Ministry responsible for fisheries shall transmit an annual report on the implementation of these measures and the results achieved to the Delegation of the European Commission in the Gabonese Republic, three months after the anniversary date of this Protocol. The Commission reserves the right to request additional information on these results from the Gabonese Ministry responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

#### Article 4

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

#### ANNEX

##### CONDITIONS GOVERNING FISHING ACTIVITIES BY COMMUNITY VESSELS IN GABON'S FISHING ZONE

###### 1. Licence applications and issuing formalities

The procedure for applications for, and the issue of, licences authorising Community vessels to fish in Gabon's fishing zone shall be as follows.

The relevant Community authorities shall present to the Gabonese Ministry responsible for fisheries, via the Delegation of the European Commission in the Gabonese Republic, an application for each vessel wishing to fish under the Agreement, at least 15 days before the beginning of the requested term of validity.

Applications shall be made on the form provided for that purpose by the Gabonese Ministry responsible for fisheries, in accordance with the specimen given in Appendix 1.

Licences shall be signed and issued by the Gabonese Ministry responsible for fisheries to shipowners or their representatives, via the Delegation of the European Commission in the Gabonese Republic, within 15 working days of application.

Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the European Commission, a vessel's licence shall, in cases of force majeure, be replaced by a new licence for another vessel with identical characteristics. The owner of the vessel being replaced shall return the cancelled licence to the Gabonese Ministry responsible for

fisheries via the Delegation of the European Commission.

The new licence shall indicate:

- the date of issue,
- the fact that it cancels and replaces the licence of the previous vessel.

In such cases, no new advance shall be due. Licences must be held on board at all times.

However, on receipt of notification of payment of the advance sent by the European Commission to the Gabonese Ministry responsible for fisheries, vessels shall be entered on a list of vessels authorised to fish, which shall be sent to the Gabonese authorities responsible for fisheries inspection. Pending arrival of the licence itself, a copy of the licence may be obtained by fax; that copy, which authorises the vessel to fish until arrival of the original document, must be kept on board.

Licences shall be valid for one year. They shall be renewable.

The fee shall be set at ECU 25 per tonne caught within Gabon's fishing zones. It shall include all local and national taxes with the exception of port taxes and charges for the provision of services.

The Gabonese Ministry responsible for fisheries shall communicate the arrangements for payment of the licence fees, in particular the details of the bank account and the currency to be used.

Licences shall be issued on advance payment of an annual sum of ECU 2 500 per tuna seiner, ECU 1 100 per surface longliner of more than 150 GRT and ECU 800 per surface longliner of 150 GRT or less.

## 2. Statement of catch and statement of fees due from shipowners

The captain shall complete a fishing form corresponding to the ICCAT specimen in Appendix 2 for each period spent fishing in Gabon's fishing zone.

The form, which must be legible and signed by the captain of the vessel, shall be sent as soon as possible to the Gabonese Ministry responsible for fisheries and, for processing, to the French Institute for Scientific Research for Development and Cooperation (Orstom: Office of Overseas Scientific and Technical Research) or the Spanish Oceanographic Institute (IEO).

If these provisions are not complied with, the Gabonese Ministry responsible for fisheries reserves the right to suspend the licence of the offending vessel until these formalities have been carried out and to apply the penalties provided for under national law.

Member States shall inform the European Commission before 15 April each year of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall establish a breakdown of the fees due in respect of the fishing year, which it shall then send to the Gabonese Ministry responsible for fisheries.

Shipowners shall be notified of this breakdown by the European Commission by the end of April at the latest and shall have 30 days in which to meet their financial obligations. Shipowners cannot recover the balance in cases where the amount payable in respect of actual fishing operations is less than the advance payment.

## 3. Inspection and monitoring

Community vessels fishing in Gabon's fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of Gabonese officials responsible for the inspection and monitoring of fishing activities. These officials should not remain on board any longer than the time required to verify catches by sampling and carry out any other inspections relating to fishing activities.

## 4. Observers

At the request of the Gabonese authorities, tuna boats and surface longliners shall take an observer on board who shall be treated as an officer. The time spent on board by the observer shall be fixed by the Gabonese authorities but, as a general rule, it should not exceed the time

required to carry out his duties. Once on board, the observer shall:

- observe the fishing activities of the vessels,
- verify the position of vessels engaged in fishing operations,
- perform biological sampling in the context of scientific programmes,
- note the fishing gear used,
- verify the catch data for Gabon's zone recorded in the logbook.

While on board, the observer:

- must take all appropriate steps to ensure that the conditions under which he is taken on board and his presence on board do not interrupt or hamper fishing activities,
- must respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.

The conditions governing his embarkation shall be agreed between the shipowner or his representative and the Gabonese authorities. If the shipowner is unable to take the observer on board and put him off at a Gabonese port mutually agreed with the Gabonese authorities, the shipowner shall bear the cost of taking the observer aboard and putting him ashore.

If the observer is not present at the time and place agreed and during the twelve hours following the time agreed, the shipowner shall be absolved of his obligation to take the observer on board.

## 5. Fishing zones

The vessels referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters beyond twelve nautical miles from the base lines.

## 6. Entering and leaving the zone

Vessels shall notify the Gabonese Ministry responsible for fisheries of their intention to enter or leave Gabon's fishing zone at least 24 hours in advance. When notifying their departure, all vessels shall also notify the estimated catches taken during the time they have spent in Gabon's fishing zone. This information should preferably be communicated by fax or, for vessels not equipped with a fax, by radio.

A vessel found to be fishing without having informed the Gabonese Ministry responsible for fisheries shall be regarded as a vessel without a licence.

Vessels shall be informed of the relevant fax number and radio frequency when the fishing licence is issued.

The Gabonese Ministry responsible for fisheries and the shipowners shall keep a copy of fax communications or a recording of radio communications until both parties have agreed to the final statement of fees due referred to in point 2.

## 7. Zones closed to shipping

The zones adjacent to oil extraction activities shall be closed to all shipping.

The Gabonese Ministry responsible for fisheries shall notify the coordinates of these zones to shipowners when the fishing licence is issued.

The zones closed to shipping shall also be notified for information purposes to the Delegation of the European Commission in the Gabonese Republic, as shall all changes to these zones, which must be announced at least two months before enforcement.

## 8. Use of services

Community vessels shall, wherever possible, transship and procure the supplies and services they require in Gabonese ports.

## 9. Boarding

(1) The Delegation of the European Commission in the Gabonese Republic shall be informed within two working days of the boarding of any Community fishing vessel fishing under a

Fisheries Agreement concluded between the Community and a third country in the exclusive economic zone of the Gabonese Republic. At the same time, it shall be given a brief report of the circumstances and reasons leading to such boarding.

(2) Before any measures regarding the master or the crew of the vessel or any action regarding the cargo and equipment of the vessel are considered, other than those to safeguard evidence relating to the presumed infringement, a consultation meeting shall be held, within one working day from the receipt of the above information, between the Delegation of the European Commission in the Gabonese Republic, the Ministry responsible for fisheries and the inspection authorities, possibly attended by a representative of the Member State concerned. At the meeting, the parties shall exchange any relevant documentation or information helping to clarify the circumstances of the facts established. The shipowner or his representative shall be informed of the outcome of the meeting and of any measures resulting from the boarding.

(3) Before any judicial proceedings, an attempt shall be made to resolve the presumed infringement through a compromise procedure. This procedure shall be completed no later than three working days after the boarding.

(4) Should the case not be settled by compromise, and the master is therefore brought before a competent Gabonese judicial body, a reasonable bank security shall be fixed by the competent authority within two working days, following the conclusion of the compromise procedure, pending the judicial decision. The bank security shall be released by the Ministry responsible for fisheries once the master of the vessel concerned has been acquitted by the judicial decision.

(5) The vessel and its crew shall be released:

- at the end of the consultation meeting, if the established facts permit, or
- on receipt of payment of a fine (compromise procedure), or
- once a bank security is deposited (judicial proceedings).

(6) Should one of the parties consider that there is a problem in the application of the above procedure, it may request urgent consultations under Article 9 of the Agreement.

## Appendix 1

### MINISTRY FOR FISHERIES LICENCE APPLICATION FOR FOREIGN INDUSTRIAL FISHING VESSELS

#### START OF GRAPHIC

1. Name of shipowner:
2. Address of shipowner:
3. Name of representative or local agent of shipowner:
4. Address of representative or local agent of shipowner:
5. Name of master:
6. Registration of vessel:
7. Registration number:
8. Date and place of construction:
9. Flying the flag of:
10. Port of registration:
11. Port of rigging:
12. Overall length:
13. Width:
14. Gross tonnage:
15. Net tonnage:
16. Hold capacity:
17. Chilling or freezing capacity:
18. Engine type and horse power:

19. Type of fishing:
  20. Crew complement:
  21. Communication equipment:
  22. Call sign:
  23. Dialling signals:
  24. Fishing operations to be carried out:
  25. Place for landing catch:
  26. Fishing zones:
  27. Species to be caught:
  28. Period of validity:
  29. Special conditions:
- Opinion of the Directorate General for Fisheries  
Remarks of the Ministry for Fisheries, Agriculture and Rural Life  
GRAPHIC missing

Appendix 2  
GRAPHIC missing  
ICCAT LOGBOOK for TUNA FISHERY