

Protocol establishing, for the period from 1 July 1997 to 30 June 2000, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Equatorial Guinea on fishing off the coast of Equatorial Guinea
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Article 1

For a period of three years from 1 July 1997, the fishing rights granted pursuant to Article 2 of the Agreement shall be:

- freezer tuna seiners: 30 vessels,
- surface longliners: 30 vessels,
- pool-and-line tuna vessels: 8 vessels.

Article 2

1. The financial compensation referred to in Article 6 of the Agreement shall be, for the period referred to in Article 1, ECU 600 000, payable in three equal annual instalments. This compensation shall cover a catch weight in waters of Equatorial Guinea of 4 000 tonnes of tuna fished per year. If the tuna caught by Community vessels in Equatorial Guinea's fishing zone exceeds this weight, the amount referred to above shall be proportionately increased.

2. The use to which this compensation is put shall be the sole responsibility of the Government of the Republic of Equatorial Guinea.

3. The compensation shall be paid into account No 4160 of the Treasury of Equatorial Guinea, opened at the Banque des États d'Afrique Centrale (BEAC) in Malabo. Any changes shall be notified to the Commission of the European Communities.

Article 3

The Community shall also contribute, during the period referred to in Article 1, the sum of ECU 50 000 towards the financing of an Equatorial Guinea scientific or technical programme to improve information on the fishery resources within the exclusive economic zone of Equatorial Guinea.

This sum shall be made available to the Government of the Republic of Equatorial Guinea and paid into the account indicated by the Equatorial Guinea authorities.

The competent authorities of Equatorial Guinea shall send to the Commission a brief report on the utilization of the funds.

Article 4

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, the Community shall make it easier for nationals of Equatorial Guinea to find places in training establishments in its Member States and shall provide for that purpose, during the period referred to in Article 1, 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 140 000. At the request of the Equatorial Guinea authorities, part of this sum may be used to cover the costs of participation in international meetings concerning fisheries.

The sum shall be payable as and when it is used.

Article 5

The Community shall also contribute, for an amount of ECU 170 000, to the financing of programmes for fisheries surveillance bodies and for non-industrial fishing.

These funds shall be made available to the Ministry of Fisheries and Forests, which shall

communicate the bank account to which payment is to be made.
The sum shall be payable as and when it is used.

Article 6

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

Article 7

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

Article 8

This Protocol shall enter into force on the date on which it is signed.
It shall apply with effect from 1 July 1997.

ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN EQUATORIAL GUINEA'S FISHING ZONE

A. Licence application and issuing formalities

The procedure for applications for, and issue of, licences enabling vessels flying the flags of the Member States of the Community to fish in Equatorial Guinea's fishing zone shall be as follows. The competent authorities of the Community shall present to the Ministry of Water, Forestry and Reafforestation of the Republic of Equatorial Guinea, via the delegation of the Commission of the European Communities in Equatorial Guinea, an application for each vessel that is to be used for fishing under the Agreement.

The applications shall be made on the forms provided for that purpose by the competent authorities of the Republic of Equatorial Guinea, a specimen of which is attached hereto (Appendix 1).

Once signed, the licences shall be issued by the Equatorial Guinea authorities to the shipowners or their representatives via the delegation of the Commission of the European Communities in Equatorial Guinea within 15 working days of the date on which the application was submitted. However, at the request of the European Community and where force majeure is proved, 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 owner of the first vessel shall return the cancelled licence to the Ministry of Water, Forestry and Reafforestation of the Republic of Equatorial Guinea via the delegation of the Commission of the European Communities.

The new licence shall indicate:

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

In this case, no new lump sum shall be due.

The licence document must be held on board at all times. However, on receipt of the notification of the advance payment sent by the Commission of the European Communities to the authorities of Equatorial Guinea, the vessel will be included on a list to be notified to the fisheries control authorities of Equatorial Guinea. Pending receipt of the licence document, a fax copy of this licence document may be obtained and shall be kept on board, which will authorize the vessel to fish, pending delivery on board of the licence document.

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

The fees shall be ECU 20 per tonne caught within Equatorial Guinea's fishing zone.

The competent authorities of Equatorial Guinea shall indicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.

Licences shall be issued following payment of a lump sum of ECU 1 300 a year for each tuna seiner, ECU 200 a year for each pole-and-line tuna vessel and ECU 300 a year for each surface longliner.

B. Declaration of catches and breakdown of fees due by shipowners

The captain shall complete a fishing form corresponding to the model given in Appendix 2 for each period spent fishing in Equatorial Guinea's fishing zone.

The form, which must be legible and signed by the captain of the ship, shall be sent without delay to Orstom or the Spanish Oceanographical Institute, for processing.

Should this provision not be adhered to, the Government of Equatorial Guinea reserves the right to suspend the licence of the offending vessel until the formality has been complied with and to apply the penalties laid down under fisheries law No 2/1987 of 16 February 1987.

Member States shall inform the Commission of the European Communities before 15 April 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 a fishing year which it shall then send to the authorities of Equatorial Guinea for their comments.

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

C. Inspection and monitoring

Any Community vessel fishing in Equatorial Guinea's fishing zone shall allow on board any official of Equatorial Guinea responsible for inspection and monitoring and shall assist him in the accomplishment of his duties. The official must not remain on board any longer than is necessary for the verification of catches by random checks and for any other inspection relating to fishing activities.

D. Fishing zones

The vessels referred to in Article 1 of the Protocol shall be authorized to fish in waters beyond four nautical miles from the base lines.

E. Entering and leaving the zone

Within three hours of entering or leaving the zone and every three days during their fishing activities in Equatorial Guinea's waters, vessels shall be obliged to communicate their position and the volume of the catch on board direct to the Equatorial Guinea authorities preferably by fax or, failing that, by radio in the case of vessels not equipped with fax.

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

A copy of the fax messages or of the record of radio communications shall be kept by the Equatorial Guinea authorities and the shipowners until both parties have approved the final statement of fees referred to in point B.

A vessel caught fishing without having notified the Equatorial Guinea authorities of its presence shall be considered an unlicensed vessel.

F. Procedure in case of boarding

1. The delegation of the Commission of the European Communities in Equatorial Guinea shall be notified within two working days of any boarding within the Equatorial Guinea exclusive

economic zone of a fishing vessel flying the flag of a Member State of the Community and holding a valid licence granted under the Agreement. The delegation shall at the same time receive a brief report of the circumstances and reasons leading to the 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 abovementioned information, between the delegation of the Commission of the European Communities in Equatorial Guinea, the Fisheries Department 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 established facts. 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 procedure, an attempt shall be made to resolve the presumed infringement through a compromise procedure. This procedure shall end no later than three working days after the boarding.

4. Should the case not be settled by means of compromise, and the master is therefore brought before a competent Equatorial Guinea 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 competent authority once the master of the vessel concerned has been acquitted by the judicial decision.

5. The vessel and its crew shall be released either:

- 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 procedure).

6. Should one of the Parties consider that there is a problem in the application of the abovementioned procedure, it may request urgent consultations under Article 8 of the Agreement.

Appendix 1

REPUBLIC OF EQUATORIAL GUINEA APPLICATION FOR A FISHING LICENCE START OF GRAPHIC

1. Valid from:

to 2. Name of vessel:

3. Name of shipowner:

4. Port and registration number:

5. Type of fishing:

6. Authorized mesh size:

7. Length of vessel:

8. Width of vessel:

9. Gross registered tonnage:

10. Hold capacity:

11. Engine rating:

12. Type of construction:

13. Usual number of seamen aboard:

14. Radio/electrical equipment:

15. Master's name:

The above information is the sole responsibility of the shipowner or his representative.

Date of application:

Appendix 2

GRAPHIC not available