

Protocol laying down the conditions relating to temporary joint ventures and joint enterprises provided for in the Agreement on fisheries relations between the
European Community and the Republic of Lithuania
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THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community' of the one part and
THE REPUBLIC OF LITHUANIA, hereinafter referred to as 'Lithuania', of the other part,
hereinafter referred to as the 'Parties'
HAVE AGREED AS FOLLOWS:

Article 1

For the purposes of this Protocol, the following definitions shall apply:

- (a) temporary joint venture: any association based on a contractual agreement of limited duration between Community shipowner and physical or legal persons in Lithuania, with the aim of jointly fishing for and exploiting Lithuanian fishing quotas by vessels flying the flag of a Member State of the Community and sharing the cost, profits or losses of the economic activity jointly undertaken, with a view to the priority supply of the Community market;
- (b) joint enterprise: any company regulated by Lithuanian law comprising one or more Community shipowners and one or more partners in Lithuania, with the aim of fishing for and possibly exploiting Lithuanian fishing quotas by vessels flying the flag of Lithuania with a view to the priority supply of the Community market;
- (c) Community vessel: a vessel flying the flag of one of the Member States of the Community and registered within the Community;
- (d) Community shipowner: a shipowner establishing in one of the Member States of the Community;
- (e) establishment of undertakings: a company constituted under private law with capital coming from one or more Member States of the Community, established in Lithuania for the purpose of exploiting Lithuanian fishery resources with a view to the priority supply of the Community market.

Article 2

1. The Parties shall create suitable conditions for the establishment in Lithuania of undertakings using capital originating in one or more Member States of the Community and the creation of joint enterprises and temporary joint ventures in the fisheries sector between Lithuanian and Community shipowners with the aim of jointly exploiting Lithuanian fishery resources under the conditions laid down in this Protocol.
2. Lithuania shall grant the undertakings referred to in paragraph 1 access to fishing opportunities set out in Annex I.
3. As part of its policy for the restructuring of its fleet, the Community shall facilitate the inclusion of Community vessels in undertakings established or to be established in Lithuania. To that end, and as part of its policy for the technical renovation of its fishing industry, Lithuania shall transfer fishing licences and issue the appropriate new licences pursuant to the Agreement.
4. Community vessels that have been integrated in the Lithuanian fishing fleet pursuant to Article 5 and with the financial assistance envisaged in Annex IV shall not be reintegrated in the Community fleet.

Article 3

1. The Parties shall select the projects for the temporary joint ventures and joint enterprises provided for in Article 2. For this purpose, a Joint Committee shall be established to:
 - evaluate the projects presented by the Parties for the establishment of temporary joint ventures

and joint enterprises provided for in Article 2 and in accordance with the criteria set out in Annex II,

- check that the projects are being properly administered and oversee the use of the financial assistance given to projects in accordance with Article 5,
- review the activities of Community vessels belonging to temporary joint ventures in Lithuanian waters before the end of their contract.

2. The Joint Committee shall meet once a year alternately in Vilnius and Brussels and exceptionally at the request of either Party.

Article 4

1. In order to encourage the establishment of temporary joint ventures referred to in Article 2, the projects selected by the Parties shall be eligible for financial assistance in accordance with the conditions laid down in Annex III.

2. The Community shall grant to the Lithuanian company which forms a temporary joint venture with a Community shipowner, a financial support equivalent to 15 % of that granted to that Community owner.

Article 5

1. In order to encourage the establishment of joint enterprises referred to in Article 2, the projects selected by the Parties shall be eligible for financial assistance in accordance with the conditions laid down in Annex IV.

2. With a view to encouraging the establishment and development of joint enterprises, the Community shall grant to joint enterprises newly established in Lithuania, financial support of 15 % of the amount paid to the Community owner. This financial support in the form of operating capital shall be paid by the Community to the Fisheries Department of the Ministry of Agriculture of Lithuania, which shall lay down the terms governing its use and its administration. Lithuania shall inform the Joint Committee of how these funds are used.

Article 6

The establishment of joint enterprises shall not result in an increase in the capacity of the Lithuanian fleet.

Article 7

The conditions governing the creation and access to resources of temporary joint ventures and joint enterprises are laid down in Annex V.

Article 8

The financial assistance referred to in Articles 4 and 5 shall be paid to the Community vessel owner to cover part of his financial contribution to the establishment of a joint enterprise or joint venture in Lithuania, and to remove the vessel in question from the Community register.

Article 9

For the purpose of financial assistance to the establishment of temporary joint ventures and permanent joint enterprises referred to in Article 5 of the Agreement and Articles 4 and 5 of this Protocol, the European Commission shall contribute ECU 2 500 000 for the duration of this Protocol.

Article 10

The Annexes to this Protocol shall form an integral part thereof.

Article 11

1. The terms of this Protocol shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose.
2. This Protocol shall be valid for a period of three years. Before the end of the period of validity, the Parties shall begin negotiations in order to decide upon any amendments to the Protocol and/or Annexes which may be necessary for the subsequent period.

Article 12

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Lithuanian languages, each text being equally authentic.

For the European Community
For the Republic of Lithuania

ANNEX I

FISHING OPPORTUNITIES FOR JOINT UNDERTAKINGS

In accordance with Article 5 of the Agreement and Article 2 (2) of this Protocol, Lithuania shall encourage the promotion and preservation of a favourable and stable climate for the establishment and operation of joint ventures and joint enterprises.

To that end, Lithuania shall ensure a non-discriminatory, fair and equitable treatment to such joint ventures and joint enterprises. It shall provide to the reflagged Community vessels the possibility to access Lithuanian fisheries resources and transfer from the scrapped Lithuanian vessels their respective quotas and licences.

ANNEX II

METHODS AND CRITERIA FOR PROJECT SELECTION

1. The Parties shall exchange information on the projects presented for the formation of temporary joint ventures and joint enterprises according to Article 2 of this Protocol which are liable to receive financial assistance from the Community.
2. The projects shall be presented to the Community via the competent authorities of the Member State or Member States concerned.
3. The Community shall submit to the Joint Committee the list of projects eligible for financial assistance as provided for in Articles 4 and 5 of this Protocol. The Joint Committee shall evaluate the projects in accordance basically with the following criteria:
 - (a) technology appropriate to the proposed fishing operations;
 - (b) target species and fishing zones;
 - (c) age of the vessel;
 - (d) in case of temporary joint ventures, its total duration and that of the fishing operations;
 - (e) previous experience of the Community shipowner and the Lithuanian partner in the fisheries sector.
4. The Joint Committee shall recommend to the Parties the projects selected in accordance with the criteria set out in point 3.
5. Once the projects have been approved by the Lithuanian authority and the Community, the Community shall forward to the Lithuanian authority the list of selected projects for the purpose of issuing the necessary authorizations and fishing licences.

ANNEX III

SCALES OF ASSISTANCE TO TEMPORARY JOINT VENTURES

TABLE POSITION

Member States of the Community shall contribute 25 % of the abovementioned sums to projects involving vessels flying the flag of the Member State concerned.

ANNEX IV

SCALES OF ASSISTANCE TO JOINT ENTERPRISES

TABLE POSITION

The premiums for setting up joint enterprises paid to beneficiaries may not exceed the following amounts:

- 15-year-old vessels: see table above,
 - vessels less than 15 years old: scale from table above increased by 1,5 % per year less than 15; however, deduction pro rata temporis shall be made for any construction and/or modernization aid received by the vessel in the 10 years preceding the establishment of the joint enterprise and no financial assistance shall be granted for vessels of 5 years old or less,
 - vessels more than 15 years old: scale from table above decreased by 1,5 % per year over 15.
- Member States of the Community shall contribute 25 % of the abovementioned sums to projects involving vessels reflagging from the Member State concerned to Lithuania.

ANNEX V

CONDITIONS GOVERNING THE CREATION AND ACCESS TO RESOURCES OF TEMPORARY JOINT VENTURES AND JOINT ENTERPRISES IN LITHUANIA

A. Selected projects

Once the project selection procedure laid down in Annex II has been completed, the Community shall provide the Lithuanian authority with a list of Community vessels selected for inclusion in a temporary joint venture or joint enterprises with a view to the exercise of fishing activities.

B. Licences

The Lithuanian authority shall promptly transfer and issue a fishing licence. For temporary joint ventures, the fishing licences shall be issued for a period of validity equal to the duration of the temporary joint venture. Fishing shall take place on quotas allocated by the Lithuanian authority.

C. Replacement of vessels

A Community vessel operating under a temporary joint venture may be replaced by another Community vessel with equivalent capacity and technical specifications only on duly justified grounds and with the agreement of the Parties.

D. Fitting-out

Vessels operating under temporary joint ventures shall comply with rules and regulations

applicable in the Republic of Lithuania regarding fitting-out, which rules and regulations shall be applied without discrimination between Lithuanian and Community vessels.

E. Catch declarations

1. All Community vessels shall forward to the Lithuanian authority a catch declaration in accordance with Lithuanian fishery regulations.
2. A copy of the catch declaration shall be forwarded to the European Commission in Brussels.
3. In the event of these provision not being complied with, the Lithuanian authority may suspend the fishing licence of the vessel involved until the said formalities have been complied with.

F. Duration of the joint ventures

Temporary joint ventures shall be valid for a period of no more than one year. Under no circumstances may this duration be extended beyond the expiry date of this Protocol.

G. Scientific observers

At the request of the Lithuanian authority, Community vessels fishing pursuant to this Protocol shall permit a scientific observer designated by the said authority to come on board to perform his tasks. The observer shall be provided with all the facilities necessary for the exercise of his functions.

The conditions of his stay on board shall be the same as those of the other officers of the vessel. Observers' remunerations and social security contributions shall be paid by the Lithuanian authorities. The costs of his stay on board shall be borne by the owner of the vessel.

H. Signing on of crew

1. Community vessels operating under temporary joint ventures shall sign on at least 30 % of Lithuanian crew members. Such crew members must possess the knowledge necessary for performing their functions.
2. The crew and captain of reflagged vessels operating under joint enterprises have to be Lithuanian nationals.
3. The said crew members' work contracts shall be concluded in Lithuania between the representatives of the shipowners and the crew members concerned and must include social security arrangements and life and accident insurance in accordance with Lithuanian legislation.