

PROTOCOL

setting out, for the period 1 June 1999 to 31 May 2002, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off the Coast of São Tomé e Príncipe

Article 1

From 1 June 1999 and for a period of three years, fishing rights pursuant to Article 2 of the Agreement shall be as follows:

- freezer tuna seiners: 36 vessels,
- pole-and-line tuna vessels: seven vessels,
- surface longliners: 33 vessels,

Article 2

1. The financial compensation referred to in Article 6 of the Agreement shall be EUR 318 750 per year, payable not later than 31 October 1999 for the first instalment and not later than 31 May 2000 and 31 May 2001 for the other two instalments.
2. That amount shall cover an annual catch of 8 500 tonnes in São Tomé e Príncipe waters. If the average catch each year under this Protocol by Community vessels in São Tomé e Príncipe waters exceeds this quantity, the amount of the financial compensation shall be increased by EUR 50 per additional tonne.
3. The use to which this compensation is put shall be the sole responsibility of the Government of the Democratic Republic of São Tomé e Príncipe. It shall be paid into an account with the National Bank of São Tomé e Príncipe.

Article 3

During the period covered by the Protocol, the Community shall contribute an additional EUR 956 250 to financing the measures described below, allocated as follows:

1. EUR 286 875 for scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé e Príncipe fishing zone,
2. stepping up surveillance, inspection and checks in the fishing zones: EUR 286 875,
3. institutional support to the administrative department responsible for fisheries: EUR 114 750,
4. study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: São Tomé e Príncipe's contributions to international fisheries organisations and expenses of São Tomé e Príncipe delegates participating in international meetings concerning fisheries: EUR 191 250,
5. aid for small-scale fishing: EUR 76 500.

These measures shall be decided by mutual agreement between the competent authorities of São Tomé e Príncipe and the Commission of the European Communities.

The amounts indicated will be paid into the bank accounts designated by the Government of São Tomé e Príncipe.

The São Tomé e Príncipe Ministry responsible for fisheries shall forward an annual report on the implementation of these measures and the results achieved to the Delegation of the Commission in São Tomé e Príncipe. The Commission reserves the right to request additional information on these results from the Ministry responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

Article 4

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

Article 5

The Annex to the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe of fishing off the coast of São Tomé e Príncipe is hereby repealed and replaced by the Annex to this Protocol.

Article 6

This Protocol shall enter into force on the date of its signing.

It shall apply from 1 June 1999.

ANNEX

CONDITIONS GOVERNING FISHING BY COMMUNITY VESSELS IN THE SÃO TOMÉ E PRÍNCIPE FISHING ZONE**1. APPLICATION FOR AND ISSUE OF LICENCES**

The procedure for applications for, and issue of, the licences referred to in Article 4 of the Agreement shall be as follows.

The relevant Community authorities shall present to the Ministry of Agriculture and Fisheries of São Tomé e Príncipe, via the Commission Delegation responsible for São Tomé e Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé e Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé e Príncipe authorities within 20 days of submission of the application to the shipowners or their representatives via the Delegation of the Commission responsible for São Tomé e Príncipe.

Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the Commission, a vessel's licence may, and where *force majeure* is proved, 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 Agriculture and Fisheries of São Tomé e Príncipe via the Delegation of the Commission responsible for São Tomé e Príncipe.

The new licence shall indicate:

- the date of issue,
- the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no new lump sum as laid down in point 5 shall be due.

The licence must be on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé e Príncipe authorities by the Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the São Tomé e Príncipe authorities responsibilities 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.

2. VALIDITY OF LICENCES AND PAYMENT OF FEES

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

The fees provided for in Article 4 of the Agreement shall be set at EUR 25 per tonne caught in the São Tomé e Príncipe fishing zone.

The competent authorities of São Tomé e Príncipe 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 to the National Bank of São Tomé e Príncipe of a lump sum of EUR 3 750 for each tuna seiner per year, EUR 625 for each pole-and-line tuna vessel, EUR 1 375 per year for each surface long-liner of more than 150 GRT and EUR 1 000 per year for each surface long-liner of 150 GRT or less, equivalent to the fees for:

- 150 t of tuna caught per year in the case of seiners,
- 25 t of tuna caught per year in the case of pole-and-line vessels,
- 40 t per year for surface long-liners of 150 GRT or less,
- 55 t per year for surface long-liners of more than 150 GRT.

3. STATEMENT OF CATCH AND STATEMENT OF FEES DUE FROM SHIPOWNERS

A fishing log in accordance with the ICCAT model in Annex 2 shall be kept on vessels for each fishing period spent in São Tomé e Príncipe waters. It shall be filled in even when no catches are made.

The words 'Outside São Tomé e Príncipe's EEZ' shall be entered in the abovementioned logbook in respect of periods during which the said vessels are not in São Tomé e Príncipe waters.

The logbooks referred to in this paragraph shall be sent to the Ministry of Agriculture and Fisheries within 15 working days of vessels arriving in a port.

Copies of these documents shall be sent to the scientific institutes referred to in the third subparagraph of the seventh paragraph below and to the Delegation of the Commission responsible for São Tomé e Príncipe.

The São Tomé e Príncipe authorities shall draw up the statement of fees due for the past calendar year on the basis of the catch declarations for each Community vessel and any other information in their possession.

The previous year's statement shall reach the Commission by 31 March which shall forward it simultaneously to the shipowners and national authorities of the Member States concerned by 15 April.

Where the shipowners dispute the statement presented by São Tomé e Príncipe they may request the relevant scientific institutes, for example France's Institut français de recherche scientifique pour le développement en coopération and the Instituto Espanol de Oceanografia (IEO), to verify the catch data before consulting with the São Tomé e Príncipe authorities with a view to drawing up the final statement by 15 May of the current year. In the absence of any observations from the shipowners by that date, the statement drawn up by the São Tomé e Príncipe authorities shall be deemed final. Member States shall forward to the Commission the final statements relating to their own fleets.

Any payment due, in addition to the advance, shall be made by the shipowners to the National Bank of São Tomé e Príncipe no later than 31 May of that year.

However, if the amount of the final statement is lower than the advance referred to in paragraph 5, the resulting balance shall not be reimbursable to the shipowner.

4. INSPECTION AND MONITORING

Community vessels fishing in the São Tomé e Príncipe fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of São Tomé e Príncipe 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.

5. OBSERVERS

At the request of the authorities, tuna seiners 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 São Tomé e Príncipe 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 the São Tomé e Príncipe 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 said vessel.

The conditions governing his embarkation shall be agreed between the shipowner or his agent and the São Tomé e Príncipe authorities. The shipowner shall, via his agent, make a payment of EUR 10 to the Government of São Tomé e Príncipe for each day spent by an observer on board a tuna seiner or surface longliner. If the shipowner is unable to take the observer aboard and put him off at a São Tomé e Príncipe port agreed by common accord with that country's 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 12 hours following the time agreed, the shipowner shall be automatically absolved of his obligation to take the observer on board.

6. 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 coast of each island.

7. ENTERING AND LEAVING THE ZONE

Vessels shall notify the São Tomé e Príncipe Ministry responsible for fisheries of their intention to enter or leave São Tomé e Príncipe'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 São Tomé e Príncipe's fishing zone. This information should preferably be communicated by fax or, for vessels not equipped with fax, by radio.

A vessel found to be fishing without having informed the São Tomé e Príncipe 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 São Tomé e Príncipe 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 3.

8. BY-CATCHES

Tuna seiners shall endeavour to make any by-catches available to the São Tomé e Príncipe authorities at prices fixed by mutual agreement.

9. SIGNING-ON OF SEAMEN

At the request of the São Tomé e Príncipe authorities, the tuna seiner fleet shall take on board six São Tomé e Príncipe seamen for the duration of the fishing season. No vessel may take more than one seaman on board.

The conditions of employment and remuneration shall be fixed by mutual agreement between the shipowners and representatives of the seamen.

Should the seamen not be signed on, shipowners shall be obliged to pay a lump sum to the Ministry for responsible for fisheries equivalent to the wages of seamen not signed on.

That sum shall be used for the training of seamen/fishermen in São Tomé e Príncipe and shall be paid into an account specified by the Ministry responsible for fisheries.

10. STANDARDS

The international standards on tuna fishing as recommended by ICCAT shall apply.

11. USE OF SERVICES

Community vessels shall, wherever possible, procure the supplies and services they require in São Tomé e Príncipe ports.

12. BOARDING

a) *Transmission of information*

The Ministry responsible for fisheries shall inform the Delegation of the Commission and the flag State, within 48 hours, of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement in the São Tomé e Príncipe fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The Delegation and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

b) *Settlement of boarding*

In accordance with the law on fisheries and the relevant regulations, infringements may be settled:

- either by composition, in which case the amount of the fine shall be determined in accordance with São Tomé e Príncipe legislation laying down minimum and maximum figures,
- or by legal proceedings, if no composition is possible, in accordance with São Tomé e Príncipe law.

c) The vessel shall be released and its crew authorised to leave the port:

- either as soon as the obligations imposed by the composition procedure have been completed on presentation of the receipt for the settlement, or
 - on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.
-

Appendix 1

DEMOCRATIC REPUBLIC OF SÃO TOMÉ E PRÍNCIPE
MINISTRY OF AGRICULTURE AND FISHERIES

FISHING LICENCE APPLICATION No

Name of applicant:

Name and address of shipowner:

Name and address of any representative in São Tomé e Príncipe:

Name of vessel:

Type of vessel:

Country of registry:

Port and registration number:

Vessel's external identification:

Radio call sign and frequency:

Length of vessel:

Width of vessel:

Engine type and horse power:

Hold capacity:

Minimum number of seamen:

Type of fishing:

Species targeted:

.....

Period of validity requested:

'I certify that this information is correct.

I hereby declare that I know, approve and undertake to comply with the law governing sea fishing in the Democratic Republic of São Tomé e Príncipe and the applicable international law.'

Date:

Applicant

.....
