

Protocol setting out the fishing rights and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the coast of Guinea for the period 1 January 2000 to 31 December 2001

Official Journal L 250 , 05/10/2000 pp. 32 - 45

Protocol

setting out the fishing rights and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the coast of Guinea for the period 1 January 2000 to 31 December 2001

Article 1

For a period of two years from 1 January 2000, the fishing rights granted under Article 2 of the Agreement shall be as follows:

1. fin-fish and cephalopod trawlers: an annual average of 2500 gross registered tonnes (grt) per month;
2. shrimp trawlers: an annual average of 1500 grt per month;
3. freezer tuna seiners: 38 vessels;
4. pole-and-line tuna vessels: 14 vessels;
5. surface longliners: 16 vessels.

Where appropriate and where the state of resources allows, the Joint Committee provided for in Article 10 of the Agreement shall consider introducing 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 contribution referred to in Article 8 of the Agreement for the fishing rights fixed in Article 1 shall be EUR 2960000 per year (EUR 1600000 as financial compensation and EUR 1360000 for the measures provided for in Article 4 of this Protocol). This financial compensation shall be payable by 30 June each year at the latest.
2. The Government of the Republic of Guinea shall have full discretion regarding the use to which the financial compensation is put.
3. This compensation shall be paid into an account specified by the Government of the Republic of Guinea and opened with the Public Treasury.

Article 3

If the fishing rights referred to in Article 1(1) or (2) are exhausted, the Community may request that they be increased by successive instalments of an annual average of 1000 grt per month. In such cases, the financial contribution referred to in Article 2 shall be increased proportionately, *pro rata temporis*.

Article 4

The measures set out below shall be financed from the overall financial contribution provided for in Article 2(1), to the amount of EUR 1360000 in the first year and EUR 1360000 in the second year, broken down as follows:

1. scientific and technical programmes to improve knowledge of fishery and biological resources in the Republic of Guinea's fishing zone: EUR 400000;
2. support for fisheries' surveillance bodies: EUR 800000;
3. aid for non-industrial fishing: EUR 300000;
4. institutional aid for the Fisheries Ministry: EUR 520000;
5. awards for study, practical training and seminars in the various scientific, technical and economic disciplines relating to fisheries: EUR 300000;
6. the Republic of Guinea's contributions to international fisheries organisations: EUR 100000;
7. costs of Guinean delegates' participation in international meetings on fisheries: EUR 300000.

The measures and the annual amounts allocated thereto shall be decided on by the Fisheries Ministry, which shall inform the Commission of the European Communities thereof.

The annual amounts shall be made available to the bodies concerned not later than 30 June in the first year and 2 January in the second year and paid into the bank accounts specified by the Fisheries Ministry according to the schedule for their use. The Government of the Republic of Guinea shall provide the bank account numbers to be used for such payments.

Before the anniversary date of the Protocol each year, the Fisheries Ministry shall forward a detailed

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 Fisheries Ministry 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 Republic of Guinea shall undertake to implement a plan to reduce its overall fishing effort. The Community, aware that the Republic of Guinea needs to reduce the overall fishing effort of all parties fishing in its waters, shall undertake to pay, at the end of each year of the Protocol, a financial contribution to the costs incurred in the management and monitoring required to implement that reduction, provided the conditions agreed on jointly are met. That financial contribution shall not exceed EUR 370000 per year. The contribution will be paid into an account to be specified by the Fisheries Ministry of the Republic of Guinea.

Article 7

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

Article 8

This Protocol enters into force on the date of its signing.
It applies from 1 January 2000.

ANNEX

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

1. Licence application and issuing formalities

The relevant Community authorities shall present to the Fisheries Ministry via the Delegation of the European Commission in the Republic of Guinea, an application for each vessel that is to be used for fishing under the Agreement, at least 30 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 Fisheries Ministry, a specimen of which is attached hereto (Appendix 1).

Each licence application shall be accompanied by proof of payment of the fee for the period of the licence's validity. Payment shall be made into the account opened with the Public Treasury of the Republic of Guinea.

The fees shall include all national and local charges except for port taxes and service costs.

Licences for all vessels shall be issued by the Fisheries Ministry within 30 days following receipt of proof of payment as laid down above to the shipowners or their representatives via the Delegation of the European Commission in the Republic of Guinea.

>TABLE MISSING

Licences may not start running during one annual period and expire during the next.

Licences shall be issued for a specific vessel and shall not be transferable. However, where force majeure is proven and at the request of the Community, 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 Fisheries Ministry via the Delegation of the European Commission in the Republic of Guinea.

The new licence shall indicate:

- the date of issue,
- the 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 this case, no fee as laid down in the second subparagraph of Article 5 of the Agreement shall be due for unexpired periods of validity.

The licence must be held on board at all times.

1.1. Provisions applicable to trawlers

1. Each vessel shall be obliged to report to the port of Conakry once a year, prior to the issue of the licence, to undergo the inspection laid down by the rules and regulations currently in force. Inspections shall be carried out exclusively by duly authorised persons and must be effected within 24 working hours of arrival of the vessel in port if arrival has been announced at least 48 hours in advance. If the licence is renewed during the same calendar year the vessel shall be exempt from further inspection.

The costs of technical inspections are to be borne by the shipowners and may not exceed EUR 250 per vessel per year.

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

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

(b) The fees to be paid by shipowners, expressed in EUR/grt shall be as follows.

- for annual licences:

>TABLE MISSING

- for six-month licences:

>TABLE MISSING

- for three-month licences:

>TABLE MISSING

1.2. Provisions applicable to tuna vessels and surface longliners

Licences must be held on board at all times; however, fishing shall be authorised on receipt of the notification of payment of the advance forwarded by the European Commission to the Fisheries Ministry of the Republic of Guinea. Vessels shall be entered on a list of vessels authorised to fish, which will be sent to the Guinean authorities responsible 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.

The annual fees shall be EUR 25 per tonne caught within the Republic of Guinea's fishing zone.

Licences shall be issued following payment to the Public Treasury of an annual advance of EUR 2250 for each tuna seiner, EUR 375 for each pole-and-line tuna vessel, EUR 875 per year for each surface longliner of more than 150 grt and EUR 625 per year for each surface longliner of 150 grt or less, equivalent to the fees for:

- 90 tonnes of tuna caught per year in the case of seiners,

- 15 tonnes caught per year in the case of pole-and-line tuna vessels,

- 35 tonnes per year in the case of surface longliners of more than 150 grt,

- 25 tonnes per year in the case of surface longliners of 150 grt or less.

The final statement of the fees due for the fishing period shall be drawn up by the European 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 competent to verify catch data, such as the Institut de Recherche pour le Développement (IRD), the Instituto Español de Oceanografía (IEO) and the Instituto Português de Investigação Marítima (IPIMAR), in cooperation with the Centre National des Sciences Halieutiques de Boussoura (CNSHB). The statement shall be forwarded to the Fisheries Ministry and to the shipowners at the same time. Any additional payment due shall be made by the shipowners no later than 30 days after notification of the final statement, to be paid into the account opened with the Public Treasury of the Republic of Guinea.

However, if the amount of the final statement is lower than the abovementioned amount, the resulting balance shall not be reimbursable.

2. Statement of catch

For all Community vessels authorised to fish in the Republic of Guinea's waters under the Agreement a statement of their catch must be provided to the Fisheries Ministry, with a copy to the Delegation of the European Commission in the Republic of Guinea, in accordance with the procedures set out below:

- for trawlers a statement shall be made out according to the specimen annexed hereto (Appendix 2). The statements shall be drawn up each month and presented at least once each quarter,

- for tuna seiners, pole-and-line tuna vessels and surface longliners a fishing log shall be kept, in accordance with Appendix 3, for each fishing period spent in the Republic of Guinea's fishing zone. The form must be sent, within 45 days of the end of the fishing voyage spent in the Republic of Guinea's fishing zone, to the Fisheries Ministry via the Delegation of the European Commission in the Republic of Guinea.

Forms must be completed legibly and be signed by the master of the vessel. They must be completed by all vessels which have obtained a licence, even if they have not fished.

Should this provision not be adhered to, the Fisheries Ministry reserves the right to suspend the licence of the offending vessel until the formality has been complied with. In this case, the Delegation of the European Commission in the Republic of Guinea shall be informed.

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.

3. Landing of catch

Trawlers authorised to fish in the Republic of Guinea's fishing zone shall, in order to make a contribution towards supplying the local population with fish caught in the Republic of Guinea's fishing zone, be obliged 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.

However, vessels not intending to land 200 kg of fish per grt per year shall be required to pay an additional fee of EUR 30 per grt when they pay for their licence.

4. By-catch

Fin-fish trawlers may not hold on board crustaceans representing more than 9 % or cephalopods representing more than 9 % of their total catch in the Republic of Guinea's fishing zone.

Cephalopod trawlers may not hold on board crustaceans representing more than 15 % or fish representing more than 35 % of their total catch in the Republic of Guinea's fishing zone.

Shrimp trawlers may not hold on board fish representing more than 30 % or cephalopods representing more than 20 % of their total catch in the Republic of Guinea's fishing zone.

5. Signing-on of seamen

Owners who have been issued fishing licences under the Agreement shall contribute to the on-the-job vocational training of Republic of Guinea nationals, subject to the conditions and limits set out below.

5.1. Each trawler owner shall 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.

5.2. For the fleet of tuna seiners, six Guinean seamen shall be signed on permanently.

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

5.4. For surface longliners, the shipowners shall undertake to employ two Guinean seamen per vessel for the duration of the vessels' actual presence in Guinean waters.

5.5. The wages of these Guinean seamen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the Fisheries Ministry; the wages shall be borne by the shipowners and must include the social contributions to which the seaman is subject (including life assurance and accident and sickness insurance).

Should the seamen not be signed on, owners of tuna seiners, pole-and-line tuna vessels and surface longliners shall be obliged to pay the Fisheries Ministry a lump sum equivalent to the wages of seamen not signed on in accordance with the provisions of points 2, 3 and 4.

This sum will be used for the training of seamen/fishermen in the Republic of Guinea and is to be paid into an account specified by the Fisheries Ministry.

6. Observers

6.1. Each trawler shall take on board an observer appointed by the Fisheries Ministry.

Observers shall not normally remain on board for more than two consecutive trips.

6.2. Tuna seiners and surface longliners shall take an observer on board at the request of the Guinean authorities. The time spent on board by observers is to be fixed by the Guinean authorities but, as a general rule, it should not exceed the time required to carry out their duties.

6.3. Observers shall be treated as officers. They 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 Guinea's zone recorded in the logbook,
- report fishing data by radio once a week.

While on board, observers shall:

- take all appropriate steps to ensure that the conditions under which they are taken on board and their presence on board do not interrupt or hamper fishing activities,
- respect the material and equipment on board and the confidentiality of all documents belonging to the said vessel,
- draw up an activity report to be transmitted to the competent Guinean authorities and send a copy to the Delegation of the European Commission.

The terms of observers' embarkation are to be agreed between the shipowner or his agent and the Guinean authorities. Their wages and social insurance contributions are to be paid by the Fisheries Ministry. Shipowners, through their agents, shall pay the Centre National de Surveillance et de Protection des Pêches EUR 15 for each day spent by an observer on board a trawler and EUR 10 for each day spent on board a tuna seiner or surface longliner. Shipowners who are unable to take observers aboard and put them off at a Guinean port agreed by common accord with the Guinean authorities shall bear the cost of taking the observers aboard and putting them ashore.

If the observer is not present at the time and place agreed and during the 12 hours following the time agreed, shipowners shall be automatically absolved of their obligation to take the observer on board.

7. Inspection and monitoring

Any Community vessel fishing in the Republic of Guinea's zone shall allow on board any official of the Republic of Guinea responsible for inspection and monitoring and shall assist him in the accomplishment of his duties. This 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.

8. Fishing zones

All the vessels referred to in Article 1 of the Protocol shall be authorised to fish in waters beyond 10 nautical miles, including pole-and-line tuna vessels for the purpose of acquiring live bait.

9. Minimum meshes authorised

The minimum mesh size authorised for the trawl body (mesh fully extended) shall be:

- (a) 40 mm for shrimps;
- (b) 60 mm for cephalopods;
- (c) 70 mm for fin-fish;
- (d) 16 mm for fishing for live bait with purse seines.

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

10. Entering and leaving the zone

All Community vessels intending to enter or leaving the Republic of Guinea's fishing zone shall notify the radio station of the Centre National de Surveillance des Pêches (CNSP) thereof at least 24 hours in advance. They shall communicate the date and time and their position each time they enter and leave the Republic of Guinea's fishing zone.

The call sign and operating frequencies and times of the station shall be communicated to the shipowners by the CNSP at the time the licence is issued.

In cases where this radio communication cannot be used, vessels may use alternative means, such as fax (CNSP: 224-46 39 22, the Fisheries Ministry: 224-41 43 10).

11. Boarding of vessels

11.1. The Delegation of the European Commission in the Republic of Guinea shall be notified within 48 hours of any boarding within the Republic of Guinea's fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under an Agreement concluded between the Community and a third country and shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

11.2. In the case of vessels authorised to fish in Guinean waters, before any measures regarding the master or the crew of the vessel of 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 48 hours of receipt of the abovementioned information, between the Delegation of the European Commission, the Fisheries Ministry 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, in particular automatically registered data showing the vessel's positions during the trip up to the time of boarding, 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.

11.3. 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.

11.4. Should the case not be settled by means of compromise, and therefore be brought before a competent judicial body, a bank security payable by the shipowner shall be fixed by the relevant authority within 48 hours following the conclusion of the compromise procedure, pending the judicial decision. The amount of the security must not exceed the amount of the penalty laid down under national legislation for the presumed infringement in question. The bank security shall be returned to the shipowner by the relevant authority once the case is settled without incrimination of the master of the vessel concerned.

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

- at the end of the consultation meeting, if the established facts permit, or
- once the obligations arising under the compromise have been fulfilled, or
- once a bank security is deposited by the shipowner (judicial procedure).