

Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period 28 February 2001 to 27 February 2004

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Article 1

Pursuant to Article 2 of the Agreement, licences authorising simultaneous fishing in Comorian waters shall be granted to 40 freezer tuna seiners and 25 surface longliners for a period of three years beginning on 28 February 2001.

Article 2

1. The financial compensation referred to in Article 1 shall be fixed at EUR 350250 per year (comprising EUR 140000 financial compensation, to be paid not later than 1 September each year, and EUR 210250 for the measures referred to in Article 3 of this Protocol).

2. The financial contribution shall cover catches of 4670 tonnes per year in Comorian waters. If the quantity of tuna caught by Community vessels in Comorian waters exceeds this weight, the above sum shall be increased proportionally.

3. The financial compensation shall be paid into an account to be indicated by the Government of the Comoros, in the name of the Public Treasury.

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

Article 3

The measures set out below shall be financed from the financial contribution provided for in Article 2(1), to the amount of EUR 210250 per year broken down as follows:

1. assistance for the development of non-industrial fishing: EUR 126000;

2. the financing of scientific and technical programmes and interinstitutional support to the Ministry responsible for fisheries and the structures responsible for fisheries surveillance: EUR 31600;

3. the participation of Comorian delegates in international meetings concerning fisheries, the Comoros' contribution to regional fisheries organisations and the financing of study grants and practical training courses in the fisheries field: EUR 52650.

The measures will be adopted by the Ministry responsible for fisheries, which will inform the Commission thereof.

The amounts referred to in points 1 and 2 shall be made available to the structures concerned by 1 September each year at the latest, and paid into the bank accounts of the competent Comorian authorities according to the schedule for their use.

The amount referred to in paragraph 3 shall be payable as it is used.

The 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 Comoros, not later than three months after the anniversary date of the Protocol. 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 4

Should the Community fail to make the payments provided for in Articles 2 and 3, the Fishing Agreement may be suspended.

Article 5

Where severe circumstances prevent fishing activities in the Comorian fishing zone, the Community may suspend payment of the financial contribution following prior consultations, where possible, between the two Parties.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two Parties confirming that the situation is likely to allow a return to normal fishing activities.

Article 6

The Protocol to the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros is hereby repealed and replaced by this Protocol.

Article 7

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 28 February 2001.

ANNEX

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN COMORIAN WATERS

1. Formalities concerning applications for, and the issue of, licences

The procedure for application for, and issue of, the licences allowing Community vessels to fish in Comorian waters shall be as follows.

1.1. The European Commission, through its representative in the Comoros, shall submit to the Comorian Ministry responsible for fisheries, at least 20 days before the date of commencement of the period of validity requested, an application in respect of each vessel wishing to fish under this Agreement, drawn up by the owner. The applications shall be made on the forms provided for that purpose by the Comoros, a specimen of which is attached.

1.2. Licences shall be issued to shipowners for a specific vessel. At the request of the European Commission, a licence issued for one vessel may, and in cases of force majeure shall, be replaced by a licence issued for another Community vessel.

1.3. Licences shall be issued by the Ministry responsible for fisheries to the Commission's representative in the Comoros.

1.4. Licences must be held on board at all times; however, fishing shall be authorised as soon as the Comorian Ministry responsible for fisheries has received notification from the European Commission that the advance payment has been made. Pending receipt of the original of the licence, a copy of the licence that has been drawn up may be issued by fax to be held on board the vessel.

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

1.6. The licence fee shall be set at EUR 25 per tonne of tuna caught in Comorian waters.

1.7. Licences shall be issued on advance payment to the Comoros of an annual sum of EUR 2250 per tuna seiner, EUR 1375 per surface longliner of more than 150 grt and EUR 1000 per surface longliner of 150 grt or less.

1.8. Before the entry into force of the Agreement the Comorian authorities shall communicate the arrangements for payment of the licence fees, in particular the details of the bank accounts and the currencies to be used.

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

The captain shall complete a fishing form corresponding to the model given in Appendix 2 for each period spent fishing in the Comorian fishing zone. The form may be replaced during the period of application of the Protocol by another document devised for the same purpose by an international organisation responsible for tuna fishing in the Indian Ocean.

The forms, which must be legible and signed by the captain of the ship, shall be sent to the IRD (Office of Research and Development), IEO (Spanish Oceanographic Institute) and IPIMAR (Instituto Nacional das Pescas e do Mar) for processing within one month of the end of each calendar quarter.

If these provisions are not complied with, the Comorian 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 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 Comorian Ministry responsible for fisheries for its comments.

Shipowners shall receive notification by the end of April of the statement drawn up by the Commission,

and shall have 30 days to make any payment due. The shipowner 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 the Comorian fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of Comorian officials responsible for the inspection and monitoring of fishing activities. Those officials should not remain on board any longer than is necessary to verify catches by sampling and carry out any other inspection relating to fishing activities.

4. Observers

At the request of the Comorian Ministry responsible for fisheries, tuna vessels shall take on board an observer designated by the former to check catches made in Comorian waters. Observers shall have all the facilities needed for the performance of their duties, including access to parts of the ship and documents. Observers shall not remain on board for longer than the time required to carry out their duties. They shall be provided with suitable food and accommodation while on board. Should a tuna vessel with a Comorian observer on board leave Comorian waters, every step shall be taken to ensure that the observer returns to Comoros as soon as possible, at the shipowner's expense.

5. Communication of information

Fishing vessels shall communicate the date and time direct to the Comorian Ministry responsible for fisheries immediately on entering or leaving the Comorian fishing zone and their position and catches held on board within three hours of entering or leaving the zone and every three days while engaged in fishing activities in Comorian waters. This information should preferably be communicated by fax or, for vessels not equipped with a fax, by radio.

The Comorian Ministry responsible for fisheries shall inform vessels of the relevant fax number and radio frequency when the fishing licence is issued.

The Comorian 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.

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

6. Fishing zones

To avoid adverse effects on small-scale fisheries in Comorian waters, Community tuna vessels shall not be allowed to fish within 10 nautical miles of any of the islands nor within a radius of three nautical miles of fish aggregating devices placed by the Comorian Ministry responsible for fisheries, the positions of which have been communicated to the representative of the European Commission in the Comoros. These provisions may be reviewed by the Joint Committee referred to in Article 7 of the Agreement.

7. Ownership of rare species

Any coelacanth (*Latimeria chalumnae*) caught by a Community vessel authorised to fish in Comorian waters remains the property of the Comoros and must be turned over, without charge, to the port authorities of Moroni, Mutsamudu or Mohéli immediately in the best state possible.

8. Transshipment

Community vessel owners must give consideration to the existence of the harbour facilities of the Comoros for any transshipment operations.

9. Procedure in case of boarding

9.1. Transmission of information

The Comorian Ministry responsible for fisheries shall inform the delegation of 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 Comorian 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.

9.2. Settlement of boarding

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

- (a) either administratively, in which case the amount of the fine shall be determined in accordance with Comorian legislation laying down minimum and maximum figures;
- (b) or by legal proceedings, if no administrative settlement was possible, in accordance with Comorian law.

9.3. The vessel shall be released and its crew authorised to leave the port:

- (a) either as soon as the obligations imposed by the composition procedure have been completed on

presentation of the receipt for the settlement, or
(b) on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.

Appendix 1

LICENCE APPLICATION FORM FOR A FOREIGN FISHING VESSEL

Not available

Appendix 2

Not available