

Protocol defining, for the period 18 January 2002 to 17 January 2005, the fishing possibilities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles
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Article 1

Pursuant to Article 2 of the Agreement, and notwithstanding Article 12 of the Agreement relating to further periods of the Agreement, annual licences to fish simultaneously in Seychelles waters shall be granted to:

- (a) 40 ocean-going tuna seiners, and
- (b) 27 surface longliners

for a period of three years beginning on 18 January 2002.

Article 2

The financial contribution referred to in Article 6 of the Agreement shall be fixed at EUR 3460000 per year, out of which Seychelles agrees to allocate EUR 1160000 per year for the purpose of the matters specified in Article 3. The balance (EUR 2300000), hereinafter referred to as "financial compensation", shall be paid into an account belonging to the Government of Seychelles notified by the Central Bank of Seychelles.

The financial contribution corresponds to a catch of 46000 tonnes of tuna per year in Seychelles waters. If the catch by Community vessels in Seychelles waters exceeds 46000 tonnes, the Community shall increase the financial contribution proportionately.

The first instalment of the financial compensation is to be paid not later than 30 September 2002 and the others by 18 January 2003 and 18 January 2004.

Article 3

During the three year period referred to in Article 1, the measures set out below shall be financed from the financial contribution provided for in Article 2, to the total amount of EUR 3480000, broken down as follows:

- (a) EUR 1230000 for the development of local fisheries;
- (b) EUR 1000000 for the setting up and development of a monitoring control and surveillance system, including appropriate technical assistance;
- (c) EUR 950000 for scientific and technical programmes aiming at greater knowledge of fish stocks;
- (d) EUR 300000 for training courses in the various scientific, technical and economic fields linked to fishing and for attending international meetings.

The above amounts shall be made available no later than 30 September 2002. They shall be paid, as and when requested by the Seychelles fishing authority (hereinafter referred to as the "SFA"), into a bank account of that authority, the Seychelles authority responsible for the management of these programmes.

All these measures shall be decided by the SFA who will inform the European Commission.

The competent Seychelles authorities shall transmit an annual report on the implementation of these measures and the results achieved to the Delegation of the European Commission in charge of the Seychelles, three months after the anniversary date of the entry into force of the Protocol.

The European Commission reserves the right to request further information on these results from the competent Seychelles authorities and to review the payments concerned in the light of the actual implementation of such measures, after consultation in the framework of the Joint Committee as provided for in Article 7 of the Agreement.

Article 4

If the European Community fails to make the payments provided for in Articles 2 and 3, Seychelles may suspend the implementation of this Protocol.

Article 5

Where as a result of circumstances solely attributable to the fault or negligence of Seychelles fishing activities cannot be carried out in Seychelles waters, the European Community may, after prior consultation with Seychelles, suspend the payment of the financial contribution, provided that the Community shall pay any amount which has become due at the time of the suspension. Payment of the financial contribution shall recommence once the situation has returned to normal and following consultation and agreement between the two Parties confirming that the situation is likely to allow a return to normal fishing activities.

Article 6

The Protocol and Annex I, dated 17 January 1999, to the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles, which came into force on 28 October 1987, are hereby rescinded and replaced by this Protocol and its Annex.

Article 7

This Protocol and its Annex shall enter into force when the Parties exchange the notification concerning the accomplishment of the respective appropriate adoption procedures. They are applicable from 18 January 2002.

ANNEX

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

1. Licence application and issuing formalities

The procedure for applications for, and issue of, licences enabling Community vessels to fish in Seychelles waters shall be as follows:

1.1. the European Commission shall present to the SFA, via its Delegation in charge of Seychelles, an application, made by the shipowner, for each vessel that wishes to fish under this Agreement at least 20 days before the date of commencement of the period of validity requested. The application shall be made on the form provided for that purpose by Seychelles, a specimen of which is annexed as Appendix 1;

1.2. every licence shall be issued for one designated vessel. At the request of the European Commission, the licence for a vessel may, and, in case of force majeure, shall be replaced by a licence for another Community vessel;

1.3. the licences shall be delivered by the Seychelles authorities to the shipowners, or their representatives or agents. The Delegation of the European Commission in charge of Seychelles shall be notified of the licences granted by the Seychelles authorities;

1.4. the licence document must be held on board at all times; however, on reception of notification of payment of the advance sent to the Seychelles authorities by the European Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the Seychelles authorities responsible for 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;

1.5. the authorities of Seychelles shall communicate before the date of entry into force of the Agreement the arrangements for payment of the licence fees, and in particular the details of the bank accounts and the currencies to be used.

2. Validity of licences and payment

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

2.2. The fee shall be set at EUR 25 per tonne caught within Seychelles waters.

Licences shall be issued following advance payments to Seychelles of a lump sum, per year and for each vessel, of EUR 10000 for tuna seiners, EUR 2000 for surface longliners of more than 150 GRT and EUR 1500 for surface longliners of 150 GRT or less. Such amounts are equivalent to the fees for respectively 400 tonnes, 80 tonnes and 60 tonnes caught within Seychelles waters per year.

2.3. Surface longliners shall, before the starting of their fishing campaign in Seychelles waters and at the end of it, call into Port Victoria to check the catches held on board. However, at the request of the shipowner, the Seychelles authorities might exempt the vessel from that requirement.

Fishing licences for surface longliners shall authorise the fishing of not only tuna but also swordfish, marlin and sailfish.

2.4. The SFA will draw up a statement of fees due in respect of the previous calendar year on the basis of catch declarations by Community vessels and other information in the possession of the SFA.

The statement will be sent to the Commission before 31 March of the current year. The Commission will transmit it before 15 April simultaneously to shipowners and national authorities of the concerned Member States.

Where the shipowners do not agree with the statement submitted by the SFA, they may consult the scientific institutes competent for verifying catch statistics such as the IRD (Institut de Recherche pour le Développement), the IEO (Instituto Español de Oceanografía) and IPIMAR (Instituto de Investigação das Pescas e do Mar), and thereafter discuss together with the Seychelles authorities to establish the final statement before 15 May of the current year. In the absence of observations by the shipowners at that date, the statement submitted by the SFA is considered as the final one.

The Member States will notify the Commission of the final statement relating to their own fleet. Shipowners shall make any additional payment above the advance to the Seychelles fishery authorities at the latest by 31 May of the same year.

Where the final statement is less than the abovementioned advance, the balance shall not be recoverable by the shipowner.

3. Declarations of catches

3.1. The Community vessels licensed to fish in Seychelles waters shall fill a fishing form as set out in Appendices 2 and 3, for each trip it undertakes in Seychelles waters. In the absence of catches, the fishing forms shall still be filled in.

3.2. For the periods for which a Community vessel referred to in point 3.1 was not present in Seychelles waters, it shall provide the abovementioned fishing form with the notation "Outside Seychelles EEZ".

3.3. As far as the release of the fishing forms referred to in points 3.1 and 3.2 is concerned, the Community vessels shall:

- in the case where call into Port Victoria, submit the completed forms to the Seychelles authorities within five days of arrival, or in any event before they leave port, whichever occurs first;

- in any other case, send the completed forms to the Seychelles authorities within 14 days of arrival in any port other than Victoria.

Copies of these fishing forms shall also be sent to the scientific institutes referred to in point 2.4.

3.4. In the event of failure to comply with these provisions, the sanctions referred to in point 11 shall be applicable.

4. Observers

Tuna seiner vessels shall, at the request of the Seychelles authorities, take on board one observer, and when the Seychelles authorities think it appropriate and necessary, two observers, designated by the said authorities in order to check the position of vessels and catches made in Seychelles waters including for scientific research.

Observers shall have all facilities necessary for the performance of these duties, including access to places, documents and communication equipment. An observer must not be present for longer than the time required to fulfil his duties. Observers shall be granted officer status while on board. Should a tuna seiner with a Seychelles observer on board leave Seychelles waters, every step will be taken to ensure that the observer returns to Seychelles as soon as possible, at the shipowner's expense.

If an 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.

The salary and the social contributions of the observer shall be borne by the relevant Seychelles authorities.

5. Vessel monitoring systems

Community vessels fishing under the Agreement shall be monitored, inter alia, by vessel monitoring systems, without discrimination, under the conditions to be agreed by the Parties.

6. Employment of seamen

Each tuna seiner shall take on board at least two Seychelles seamen designated by the Seychelles authorities, in agreement with the shipowner, during its fishing campaign.

The employment contracts of the seamen shall be drawn up in Victoria between the shipowner's representatives and the seamen in agreement with the Seychelles Ministry responsible for employment.

These contracts shall also cover the social security arrangements applicable to the seamen, including life, accident and sickness insurance.

7. Landing

Tuna seiners landing in the port of Victoria will endeavour to make their by-catches available to the Seychelles authorities at the local market price.

Furthermore, the Community tuna seiners shall participate in supplying tuna to the Seychelles canneries at international market price.

8. Communications

Within three hours of each entry and exit of the zone and every three days during their fishing activities in Seychelles waters, Community vessels shall communicate directly to the Seychelles authorities, in priority by fax or, in the event of failure, by radio, their position and the volume of catches held on board.

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

A copy of the communications by fax or a record of the radio communications referred to above shall be kept by the Seychelles authorities and the shipowners until the approval by both parties of the final statement of the fees referred to in point 2.4.

In the event of failure to comply with these provisions, the sanctions referred to in point 11 shall be applicable.

9. Fishing zones

To avoid any adverse effect on small-scale fisheries in Seychelles waters, fishing by Community vessels shall not be authorised in the zones defined in Seychelles legislation nor within three miles around any fish-aggregating device placed by Seychelles authorities, the geographical positions of which have been communicated to the shipowners' representatives or agents.

10. Port equipment and use of supplies and services

Community vessels shall endeavour to procure in Seychelles all supplies and services required for their operations. The Seychelles authorities shall lay down, in agreement with the shipowners, the conditions for using port equipment and, if necessary, supplies and services.

11. Sanctions

Failure to observe any one of the above rules, the management and conservation of living resources measures or the Seychelles legislation may be penalised by suspension, revocation or non-renewal of the vessel's fishing licence. Suspension or revocation of a fishing licence shall be regarded as force majeure for the purpose of point 1.2 of this Annex.

The European Commission shall immediately be fully informed of any suspension or revocation and of all relevant facts related thereto.

12. Arrest of fishing vessels

The Seychelles authorities shall inform the Delegation of the European Commission and the flag State, within 48 hours, of the arrest of any fishing vessel flying the flag of a Member State of the Community fishing under the Agreement in Seychelles fishing zone and shall transmit a brief report of the circumstances and reasons leading to such arrest.

The Delegation and the flag State shall be kept informed of any proceedings initiated and sanctions imposed.