

Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon for the period 3 December 2001 to 2 December 2005

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Article 1

For a period of four years from 3 December 2001, the fishing opportunities granted under Article 2 of the Agreement between the European Community and the Gabonese Republic on fishing off the coast of Gabon shall be as follows:

- (a) demersal freezer trawlers fishing for crustaceans and cephalopods: 1200 GRT per month, averaged over the year;
- (b) freezer tuna seiners: 38 vessels;
- (c) surface longliners: 26 vessels.

Article 2

1. The financial contribution referred to in Article 7 of the Agreement shall be fixed at EUR 1262500 per year, comprising EUR 378750 financial compensation and EUR 883750 for the measures referred to in Article 3 of this Protocol.

The financial compensation for tuna fishing shall be EUR 787500 per year and shall cover a catch weight in Gabonese waters of 10500 tonnes of tuna. If the tuna caught each year by Community vessels in the Gabonese EEZ exceeds this weight, the amount referred to above shall be proportionately increased at the rate of EUR 75 per additional tonne.

2. The annual financial compensation shall be payable not later than 30 April in 2002, 2003, 2004 and 2005. The use to which it is put shall be the sole responsibility of the Government of the Gabonese Republic.

It shall be paid into account No 47069 X, "Pêche maritime" (Sea Fisheries) in the name of the Public Treasury of the Gabonese Republic.

Article 3

1. The measures set out below shall be financed from the financial contribution, to the amount of EUR 883750 per year, broken down as follows:

- (a) EUR 141400 towards scientific and technical programmes to promote better understanding of the fisheries and living resources of the Gabonese EEZ;
- (b) EUR 220937 to the programme for the protection and surveillance of fishing zones;
- (c) EUR 220937 for institutional support to the administrative department responsible for fisheries;
- (d) EUR 70700 for study grants and practical training courses in the various scientific, technical and economic fields linked to fishing;
- (e) EUR 44188 for the Gabonese Republic's contributions to international fisheries organisations;
- (f) EUR 35350 for the expenses of Gabonese delegates participating in international meetings concerning fisheries;
- (g) EUR 53025 for vocational training for young people engaged in non-industrial fishing and aquaculture;
- (h) EUR 44188 for technical assistance to the private non-industrial fisheries and aquaculture sector;
- (i) EUR 53025 to strengthen capacity for health inspection and quality control of fishery products.

2. The measures and the annual amounts allocated thereto shall be decided on by the Gabonese Ministry responsible for fisheries, which shall inform the Commission thereof.

3. The annual amounts, with the exception of that referred to in paragraph 1(d), shall be made available to the Public Treasury no later than 30 April in 2002, 2003, 2004 and 2005 and paid into account No 47069 X, "Pêche maritime" according to the annual schedule for their use. The amount referred to in paragraph 1(d) shall be paid as it is used.

4. The Gabonese ministry responsible for fisheries shall transmit a detailed annual report on the implementation of these measures and the results achieved to the Delegation of the European Commission in the Gabonese Republic, no later than three months after the anniversary date of the Protocol. The European Commission reserves the right to request additional information on these results from the Gabonese ministry responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

Article 4

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

Article 5

1. Should a fundamental change in circumstances prevent fishing in Gabon's exclusive economic zone, the European Community may suspend payment of the financial contribution following consultation, if possible, between the two parties.

2. 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

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.

It shall apply from 3 December 2001.

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY EUROPEAN COMMUNITY VESSELS IN GABON'S FISHING ZONE

1. Licence applications and issuing formalities

The procedure for applications for, and the issue of, licences authorising European Community vessels to fish in Gabon's exclusive economic zone shall be as follows.

The relevant European Community authorities shall present to the Gabonese ministry responsible for fisheries, via the Delegation of the European Commission in the Gabonese Republic, an application for each vessel wishing to fish under the Agreement, at least 15 days before the beginning of the requested term of validity.

Applications shall be made on the form provided for that purpose by the Gabonese ministry responsible for fisheries, in accordance with the specimen given in Appendix 1.

Licences shall be signed and issued by the Gabonese ministry responsible for fisheries to shipowners or their representatives, via the Delegation of the European Commission in the Gabonese Republic, within 15 working days of application. Representatives of shipowners shall be natural or legal persons chosen by the shipowners.

Licences shall be issued for specific vessels and shall not be transferable. However, at the request of the European Commission, a vessel's licence shall, in cases of force majeure, be replaced by a new licence for another vessel with identical characteristics. The owner of the vessel being

replaced shall return the cancelled licence to the Gabonese ministry responsible for fisheries via the Delegation of the European Commission.

The new licence shall indicate:

- the date of issue,
- the fact that it cancels and replaces the licence of the previous vessel.

In such cases, no new advance shall be due.

Licences must be held on board at all times. However, on receipt of notification of payment of the advance sent by the European Commission to the Gabonese ministry responsible for fisheries, vessels shall be entered on a list of vessels authorised to fish, which shall be sent to the Gabonese authorities responsible for fisheries inspection. Pending receipt of the licence document, a fax copy may be obtained and shall be kept on board, which will authorise the vessel to fish pending receipt of the licence document.

2. Provisions applicable to tuna seiners and surface longliners

1. Licences shall be valid for one year. They shall be renewable.
2. The fee shall be EUR 25 per tonne caught within Gabon's fishing zones. It shall include all local and national taxes with the exception of port taxes and charges for the provision of services.
3. The Gabonese ministry responsible for fisheries shall communicate the arrangements for paying licence fees, in particular the details of the bank account and the currency to be used.
4. Licences shall be issued following payment of an advance of EUR 2600 a year for each tuna seiner and EUR 1100 a year for each surface longliner, equivalent to the fees payable for a catch of:

- 104 tonnes per year in the case of tuna seiners,
- 44 tonnes per year in the case of surface longliners.

3. Statement of catch and statement of fees due from owners of tuna vessels

The captain shall complete a fishing form corresponding to the ICCAT specimen in Appendix 2 for each period spent fishing in Gabon's EEZ. Details shall be entered even where there is no catch.

The form, which must be legible and signed by the captain of the vessel, shall be sent within 45 days of the end of fishing activities in Gabon's EEZ to the Gabonese ministry responsible for fisheries, via the Delegation of the European Commission in the Gabonese Republic, and as soon as possible, for processing, to the Institut de Recherche pour le Développement (IRD), the Spanish Oceanographic Institute (IEO) or the Instituto Português de Investigação Marítima (IPIMAR).

If these provisions are not complied with, the Gabonese 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. In such cases, the Delegation of the European Commission in the Gabonese Republic shall be informed without delay.

Member States shall inform the European Commission before 15 April each year of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall draw up the statement of fees due in respect of the fishing year, which it shall then send to the Gabonese ministry responsible for fisheries.

Shipowners shall receive notification of the statement drawn up by the Commission by the end of April at the latest, and shall have 30 days in which to meet their financial obligations. In cases where the amount payable in respect of actual fishing operations is less than the advance payment, shipowners may not recover the balance.

4. Rules on demersal freezer trawlers

(a) Licences issued to freezer trawlers shall be valid for three, six or 12 months. They shall be renewable.

(b) The annual fee shall be EUR 168 per GRT per vessel.

Fees for licences for periods of less than one year shall be paid on a pro rata basis according to the length of time. Six-month and three-month licences shall be subject to a surcharge of 3 % and 5 % respectively.

5. Statements of catch by trawler owners

Trawlers authorised to fish in Gabon's EEZ under the Agreement shall notify their catch statistics to the ministry responsible for fisheries through the Delegation of the Commission of the European Communities in the Gabonese Republic using the form given in Appendix 3. These statements shall be monthly and must be communicated at least once every quarter.

6. Inspection and monitoring

Community vessels fishing in Gabon's EEZ shall allow on board any Gabonese officials responsible for inspection and monitoring of fishing activities and shall assist them in the accomplishment of their duties. 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.

7. Observers

At the request of the Gabonese authorities, tuna boats and surface longliners fishing in Gabon's EEZ shall take an observer on board who shall be treated as an officer. The time spent on board by observers shall be fixed by the Gabonese authorities but, as a general rule, it should not exceed the time required to carry out their duties. Once on board, observers 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 Gabon's zone recorded in the logbook.

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 vessel,
- draw up an activity report to be transmitted to the competent authorities of the Gabonese Republic and send a copy to the Delegation of the European Commission in the Gabonese Republic.

The terms on which observers are taken on board are to be agreed between shipowners or their representatives and the Gabonese authorities.

Shipowners who are unable to take observers aboard and put them off at a Gabonese port agreed by common accord with the Gabonese authorities shall bear the cost of taking the observers aboard and putting them ashore.

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 social contributions of observers shall be borne by the competent authorities of the Gabonese Republic. Captains shall do everything in their power to ensure the physical and moral safety of observers carrying out their duties.

8. Fishing zones

The tuna vessels referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters beyond 12 nautical miles from the baselines.

The trawlers referred to in Article 1 of the Protocol shall be authorised to fish in waters beyond six nautical miles from the baselines in accordance with Gabonese law.

9. Mesh sizes

The minimum mesh size authorised (mesh fully extended) shall be:

- (a) 40 mm for freezer trawlers taking crustaceans;

(b) 60 mm for freezer trawlers taking cephalopods.

10. Entering and leaving the zone

Vessels shall notify the Gabonese ministry responsible for fisheries of their intention to enter or leave Gabon's EEZ 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 Gabon's EEZ. This information should preferably be communicated by fax ((241) 76 46 02) or, for vessels not equipped with a fax, by radio (call sign DGPA-6241 MH2) or e-mail (DGPA@internetgabon.com).

Any vessel found fishing without having informed the Gabonese ministry responsible for fisheries shall be regarded as a vessel without a licence.

The Gabonese 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.

11. Zones closed to shipping

The zones adjacent to oil extraction activities shall be closed to all shipping.

The Gabonese ministry responsible for fisheries shall notify the coordinates of these zones to shipowners when the fishing licence is issued.

The zones closed to shipping shall also be notified for information purposes to the Delegation of the European Commission in the Gabonese Republic, as shall all changes to these zones, which must be announced at least two months before enforcement.

12. Biological recovery

6-12 mile zone: trawlers engaged in inshore fishing for shrimp shall be required to respect the two-month biological recovery period in January and February in accordance with Gabonese law.

12-200 mile zone: no biological recovery period.

13. Use of services

European Community vessels shall, wherever possible, trans-ship and procure the supplies and services they require in Gabonese ports.

14. Procedure in case of boarding

1. The Delegation of the European Commission in the Gabonese Republic shall be informed within two working days of the boarding of any Community fishing vessel fishing under a fisheries agreement concluded between the European Community and a third country in the exclusive economic zone of the Gabonese Republic. At the same time, it shall be given a brief report of the circumstances and reasons leading to such boarding.

2. Before any measures regarding the master or the crew of the vessel or 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 one working day from the receipt of the above information, between the Delegation of the European Commission in the Gabonese Republic, the ministry responsible for fisheries 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 helping to clarify the circumstances of the facts established. The shipowner or the shipowner's representative shall be informed of the outcome of the meeting and of any measures resulting from the boarding.

3. Before any judicial procedure, an attempt shall be made to resolve the presumed infringement through a compromise procedure. This procedure shall be completed no later than three working days after the boarding.

4. Should the case not be settled by compromise, and the master is therefore brought before a competent Gabonese judicial body, a reasonable bank security shall be fixed by the competent authority within two working days, following the conclusion of the compromise procedure, pending the judicial decision. The bank security shall be released by the ministry responsible for fisheries once the master of the vessel concerned has been acquitted by the judicial decision.

5. The vessel and crew are to be released:

- when the consultation meeting is closed if the outcome so permits,
- on receipt of payment of a fine (compromise procedure), or
- once a bank security is deposited (judicial proceedings).

6. Should one of the Parties consider that there is a problem in the application of the abovementioned procedure, it may request urgent consultations under Article 9 of the Agreement.