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COUNCIL

COUNCIL DECISION

of 10 June 1996

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast

(96/382/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast⁽¹⁾, and in particular Article 15 thereof,

Having regard to the proposal from the Commission,

Whereas, in accordance with the second subparagraph of Article 15 of the aforesaid Agreement, the Community and the Republic of Guinea conducted negotiations to determine the amendments or additions to be made to the Agreement at the end of the period of application of the Protocol annexed thereto;

Whereas, as a result of these negotiations, a new Protocol was initialled on 6 December 1995;

Whereas, under that Protocol, Community fishermen have fishing rights in the waters under the sovereignty or jurisdiction of the Republic of Guinea for the period from 1 January 1996 to 31 December 1997;

Whereas, in order to avoid any interruption in the fishing activities of Community vessels, it is essential that the new Protocol be applied as soon as possible; whereas, for this reason, the two parties initialled an Agreement in the form of an Exchange of Letters providing for the provisional application of the initialled Protocol from the day following the date of expiry of the current Protocol;

Whereas the Agreement in the form of an Exchange of Letters should be approved, pending a final decision taken on the basis of Article 43 of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast is hereby approved on behalf of the European Community.

The text of the Agreement in the form of an Exchange of Letters and of the Protocol are attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in the form of an Exchange of Letters in order to bind the Community.

Done at Luxembourg, 10 June 1996.

For the Council
The President
M. PINTO

⁽¹⁾ OJ No L 111, 27. 4. 1983, p. 1.

AGREEMENT

in the form of an Exchange of Letters concerning the provisional application of the Protocol establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast

A. Letter from the Government of the Republic of Guinea

Sir,

With reference to the Protocol, initialled on 6 December 1995, establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation, I have the honour to inform you that the Government of the Republic of Guinea is ready to apply this Protocol on a provisional basis, with effect from 1 January 1996, pending its entry into force in accordance with Article 9 of the said Protocol, provided that the European Community is disposed to do the same.

This is on the understanding that the first instalment of the financial compensation specified in Article 2 of the Protocol is paid by 31 May 1996.

I should be obliged if you would confirm the European Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*For the Government of
the Republic of Guinea*

B. Letter from the Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

'With reference to the Protocol, initialled on 6 December 1995, establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation, I have the honour to inform you that the Government of the Republic of Guinea is ready to apply this Protocol on a provisional basis, with effect from 1 January 1996, pending its entry into force in accordance with Article 9 of the said Protocol, provided that the European Community is disposed to do the same.

This is on the understanding that the first instalment of the financial compensation specified in Article 2 of the Protocol is paid by 31 May 1996.

I should be obliged if you would confirm the European Community's agreement to such provisional application.'

I have the honour to confirm the European Community's agreement to this provisional application of the Protocol.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of
the Council the European Union*

PROTOCOL

establishing, for the period from 1 January 1996 to 31 December 1997, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast

Article 1

For a period of two years from 1 January 1996, the fishing rights granted under Article 2 of the Agreement shall be as follows:

1. trawlers (fin-fish, cephalopods and shrimp): 5 000 grt a month, annual average;
2. freezer tuna seiners: 28 vessels;
3. pole-and-line tuna vessels: 7 vessels;
4. surface longliners: 7 vessels.

Article 2

1. The financial compensation referred to in Article 8 of the Agreement shall be, for the period referred to in Article 1, ECU 2 450 000, payable in two annual instalments of ECU 1 150 000 and ECU 1 300 000 respectively.

2. The use to which this compensation is put shall be the sole responsibility of the Government of the Republic of Guinea.

3. The compensation shall be paid into an account opened with a financial institution or any other body designated by the Government of the Republic of Guinea.

Article 3

At the request of the Community, the fishing rights referred to in point 1 of Article 1 may be increased by successive instalments of 1 000 grt a month, calculated on an annual average basis. In this case, the financial compensation referred to in Article 2 shall be increased proportionately.

Article 4

The Community shall also contribute during the period referred to in Article 1 the sum of ECU 400 000 towards the financing of a Guinean scientific or technical programme to improve information on the fishery resources within the exclusive economic zone of Guinea.

This sum shall be made available to the Government of the Republic of Guinea and paid into the account indicated by the Guinean authorities.

Article 5

The two parties agree that improving the skills and knowledge of those involved in sea-fishing is a vital element in the success of their cooperation. To that end, the Community shall make it easier for nationals of Guinea to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries.

The awards may also be used in any country linked with the Community by a cooperation agreement. The total cost of the awards may not exceed ECU 250 000. At the request of the Guinean authorities, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries or for the organization of seminars on fishing in Guinea. The sum shall be payable as and when it is used.

A proportion of the funds provided for in this article, which shall not exceed ECU 100 000, may be used to pay Guinea's contributions to international fisheries organizations.

Article 6

The Community shall also contribute to the financing of programmes as follows:

- ECU 350 000 in aid for fisheries surveillance bodies,
- ECU 300 000 in institutional aid for the Ministry of Fisheries,
- ECU 250 000 in aid for non-industrial fishing.

These funds shall be made available to the bodies concerned. The fisheries ministry shall communicate the bank accounts to which payment is to be made.

Article 7

Should the Community fail to make the payments provided for in Articles 2 and 4, the application of this Protocol may be suspended.

Article 8

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

Article 9

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

It shall be applicable from 1 January 1996.

ANNEX

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

A. Licence application and issuing formalities

The relevant Community authorities shall present to the Fisheries Ministry via the Delegation of the Commission of the European Communities in 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 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 Commission of the European Communities in Guinea.

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 European 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 Commission of the European Communities.

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.

I. 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 authorized 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.
2. Each vessel must be represented by an agent of Guinean nationality, established in Guinea.
3. (a) Licences shall be issued for periods of 3, 6 and 12 months and be renewable.
(b) The fees to be paid by shipowners, expressed in ECU/gross registered tonnage, shall be as follows.
 - for annual licences:
 - 126 for fin-fish trawlers,
 - 150 for cephalopod trawlers,
 - 152 for shrimp trawlers;

- for six-month licences:
 - 65 for fin-fish trawlers,
 - 77 for cephalopod trawlers,
 - 78 for shrimp trawlers;
- for three-month licences:
 - 33 for fin-fish trawlers,
 - 39 for cephalopod trawlers,
 - 40 for shrimp trawlers.

However, vessels failing to land 200 kg of fish per grt per year in accordance with the provisions of part C shall be obliged to pay an additional fee of ECU 10 per grt per year.

II. Provisions applicable to tuna vessels and surface longliners

- (a) The annual fees shall be ECU 20 per tonne caught within Guinea's fishing zone.
- (b) Licences shall be issued following payment to the Fisheries Ministry of a lump sum of ECU 1 500 a year for each tuna seiner and ECU 300 a year for each pole-and-line tuna vessel and surface longliner, equivalent to the fees for:
 - 75 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 and surface longliners.

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 French Office of Overseas Scientific and Technical Research (Orstom) and the Spanish Institute of Oceanography (IEO). 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 to the Fisheries Ministry no later than 30 days after notification of the final statement, to be paid into the account opened with the Public Treasury of Guinea.

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

B. Statement of catch

For all Community vessels authorized to fish in 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 Commission of the European Communities in 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 Guinea's fishing zone. The form must be sent, within 45 days of the end of the fishing voyage spent in the Guinean fishing zone, to the Fisheries Ministry via the Delegation of the Commission of the European Communities in Guinea.

Forms must be completed legibly and be signed by the master of the vessel.

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 Commission of the European Communities in Guinea shall be informed.

C. Landing of catch

Trawlers authorized to fish in the Guinean fishing zone shall, in order to make a contribution towards supplying the local population with fish caught in the Guinea 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.

D. By-catch

1. Fin-fish trawlers may not hold on board species other than fish representing more than 15 % of their total catch in the Guinean fishing zone.

Cephalopod trawlers may not hold on board crustaceans representing more than 20 % or fish representing more than 30 % of their total catch in the Guinean fishing zone.

Shrimp trawlers may not hold on board cephalopods representing more than 25 % or fish representing more than 50 % of their total catch in the Guinean fishing zone.

A maximum tolerance of 5 % of these percentages shall be authorized.

These limits shall be indicated on the licence.

2. Pole-and-line tuna vessels shall, moreover, be authorized to fish for live bait in order to carry out their fishing activities in the Guinean fishing zone.

E. Signing-on of seamen

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

1. Each trawler owner shall undertake to employ:
 - three Guinean seamen on vessels of up to 350 grt,
 - a number of Guinean seamen equivalent to 25 % of the number of seamen/fishermen signed on for vessels with a tonnage greater than 350 grt.
2. For the fleet of tuna seiners, three Guinean seamen shall be signed on permanently.
3. For the fleet of pole-and-line tuna vessels, three Guinean seamen shall be signed on for the tuna-fishing season in the Guinean fishing zone, all of them to be assigned to different vessels.
4. For the fleet of surface longliners, the shipowners undertake to employ two Guinean seamen per vessel during the fishing season in Guinean waters.
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 Guinea and is to be paid into an account specified by the Fisheries Ministry.

F. Observers

1. The observers' task shall be to check on fishing activities in the Guinean fishing zone and collect all statistical data on the fishing activities of the vessel concerned. They shall be offered every facility needed to carry out their duties, including access to premises and documents and weekly radio communication of fishing data.

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

In the case of trawlers of less than 200 grt, however, a fisherman designated by the Fisheries Ministry shall act as observer, in which case the master of the vessel shall facilitate the work of this seaman outside the actual fishing operations.

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

3. Tuna vessels and surface longliners shall take an observer on board at the request of the Fisheries Ministry. He must not remain on board any longer than is necessary for the accomplishment of his duties.

The master of the vessel shall facilitate the work of the observer, who shall be accorded the conditions enjoyed by officers of the vessel.

Should observers be taken on board in foreign ports, their travelling costs shall be borne by the shipowner.

4. The pay and social insurance contributions of observers shall be borne by the Fisheries Ministry.

In the case of trawlers, shipowners shall pay to the Centre National de Surveillance de Pêches (CNSP), ECU 10 for each day spent on board by an observer as a contribution to the expenses arising from their presence on board.

5. Should a vessel with an observer on board leave the Guinean fishing zone, all measures must be taken to ensure the observer's return to Conakry as soon as possible at the expense of the shipowner.

G. Inspection and monitoring

Any Community vessel fishing in Guinea's zone shall allow on board any official 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.

H. Fishing zones

All the vessels referred to in Article 1 of the Protocol shall be authorized to fish in waters beyond 10 nautical miles.

I. Minimum meshes authorized

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

- (a) 40 mm for shrimps;
- (b) 50 mm for cephalopods;
- (c) 60 mm for fin-fish.

These minimum sizes may be altered to conform to the standardization of the Member States of the Subregional Fisheries Commission. Any such alterations shall be examined in the Joint Committee.

Fishing with outriggers shall be authorized.

J. Entering and leaving the zone

All Community vessels fishing under the Agreement in the Guinean zone shall communicate to the radio station of the CNSP the date and time and their position when entering and leaving the Guinean 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: 1-212-4794-885, the Fisheries Ministry: 224-41 35 23).

K. Boarding of vessels

1. The Delegation of the Commission of the European Communities in Guinea shall be notified within 48 hours of any boarding within the Guinean exclusive economic 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.
2. In the case of vessels authorized 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 Commission of the European Communities, 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.

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.
 4. Should the case not be settled by means of compromise, and therefore be brought before a competent judicial body, a bank security 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.
 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 (judicial procedure).
-

Appendix 1

APPLICATION FORM
FOR A
FISHING LICENCE

For official use only	Remarks
Nationality:	
Licence No:	
Date of signing:	
Date of issue:	

APPLICANT

Name of firm:

Trade register No:

First name and surname of applicant:

Date and place of birth:

Occupation:

Address:

.....

No of employees:

Name and address of co-signatory:

.....

VESSEL

Type of vessel: Registration No:

New name: Former name:

Date and place of construction:

Original nationality:

Length: Beam: Hold:

Gross tonnage: Net tonnage:

Type of building materials:

Make of main engine: Type: Rating:

Propeller: Fixed ☐ Variable ☐ Ducted ☐

Transit speed:

Call sign: Call frequency:

List of sounding, navigating and transmission instruments:

Radar	☐	Sonar	☐	Netsonde	☐
VHF	☐	SSB	☐	Netsonde satellite navigation	☐

Other:

No of seamen:

CONSERVATION

Packed in ice ☐ Ice and refrigeration ☐
Freezing in brine ☐ Dry ☐ Refrigerated sea water ☐

Total refrigerating power:

Freezing capacity in tonnes/24 hours:

Hold capacity:

TYPE OF FISHING

A. Demersal

Inshore demersal ☐ Deep-sea demersal ☐

Type of trawl: ☐
Cephalopods ☐ Shrimps ☐ Fish ☐

Length of trawl: Headline:

Mesh size in the body:

Mesh size in the wings:

Speed of trawling:

B. Deep-sea pelagic (tuna)

Pole and line ☐ No of poles and lines ☐

Seine ☐ Length of net: Depth of net:

No of tanks: Capacity in tonnes:

C. Longlines and pots

Surface ☐ Bottom ☐

Length of lines: No of hooks:

No of lines:

No of pots:

SHORE INSTALLATIONS

Address and permit No:

.....

Name of firm:

Activities:

Domestic wholesale fish trade ☐Export ☐

Type and No of wholesale trader's card:

Description of processing and conservation plant:

.....

.....

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.....

No of employees:

NB: Indicate affirmative answers by a tick in the appropriate box.

Technical remarks

Authorization of the Ministry of Fisheries

ICCAT LOGBOOK for TUNA FISHERY

Yessel name	Gross tone	
Flag country	Capacity (M.T.)	
Registration No.	Captain	
Company or Owner	No. of crew	
Address	Reporting date	
	Reported by	

Boat LEFT	month	day	year	port
Boat RETURNED				

Number of days at sea	days	Number of fishing days or number of sets made	Trip number	19
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- ☐ Longline
☐ Sailboat
☐ Purse seine
☐ Trolling
☐ Others

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Date	Area		Effort (Number of Hooks used)	Surf. Water Temp. (in °C)	E or W	Longitude	Latitude	N or S	Bluefin tuna Thunnus thynnus or macrocephalus	Yellowfin tuna Thunnus albacares	Bigeye tuna Thunnus obesus	Albacore Thunnus alalunga		Swordfish Xiphiidae gladius		Striped marlin White marlin Tetrapturus albidus or albidus	Black marlin Makaira indica		Sei-fish Isidophorus albicans or platypterus	Skipjack Katsuwonus pelamis		Miscellaneous fishes		Daily total (in weight Kg only)	Best used		
	Day	Month										No.	Kg.	No.	Kg.		No.	Kg.		No.	Kg.	No.	Kg.			No.	Kg.
01																											
02																											
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Landing weight (in Kg.)																											

Remarks

- Use one sheet per month, and one line per day.
- At the end of each trip, forward a copy of the log to your correspondent or to ICCAT, General Mola 17, Madrid 1, Spain.
- "Day" refers to the day you set the line.
- Fishing area refers to the noon position of the boat. Round off minutes, and record degrees of latitude and longitude. Be sure to record N/S and E/W.
- The bottom line ("landing weight") should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded.
- All information reported herein will be kept strictly confidential.

COUNCIL DECISION

of 10 June 1996

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

(96/383/EC)

THE COUNCIL OF THE EUROPEAN UNION,

HAS DECIDED AS FOLLOWS:

Having regard to the Treaty establishing the European Community,

Article 1

Having regard to the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles⁽¹⁾, signed in Brussels on 28 October 1987,

Having regard to the proposal from the Commission,

Having regard to the proposal from the Commission,

Whereas the Community and the Republic of Seychelles have held negotiations with a view to determining amendments to be made to the abovementioned Agreement at the end of the period of application of the Protocol in force annexed thereto;

Whereas, as a result of these negotiations, a new Protocol was initialled on 18 January 1996, by virtue of which Community fishermen are to enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Republic of Seychelles for the period from 18 January 1996 to 17 January 1999;

Whereas, in order to avoid interruption of fishing activities by Community vessels, both parties have initialled an Agreement in the form of an Exchange of Letters providing for the provisional application of the said Protocol from the day following the date of expiry of the Protocol in force;

Whereas the Agreement in the form of an Exchange of Letters should be approved subject to a definitive decision pursuant to Article 43 of the Treaty,

The Agreement in the form of an Exchange of Letters concerning the provisional application of the Protocol defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles is hereby approved on behalf of the European Community.

The text of the Agreement in the form of an Exchange of Letters is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in the form of an Exchange of Letters in order to bind the Community.

Done at Luxembourg, 10 June 1996

For the Council

The President

M. PINTO

⁽¹⁾ OJ No L 119, 7. 5. 1987, p. 26.

AGREEMENT

in the form of an Exchange of Letters concerning the provisional application of the Protocol defining, for the period from 18 January to 17 January 1999, the fishing opportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

A. Letter from the Republic of Seychelles

Sir,

With reference to the draft Protocol, initialled on 18 January 1996, defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and financial contribution, I have the honour to inform you that the Republic of Seychelles is ready to apply this Protocol on a provisional basis, with effect from 18 January 1996, pending its entry into force in accordance with Article 6 of the Protocol, provided that the European Community is prepared to do the same.

This is on the understanding that a first instalment equal to one third of the financial compensation specified in Article 2 of the Protocol is to be paid by 31 May 1996.

I should be obliged if you would confirm the European Community's agreement to such provisional application.

Please accept, Sir, the assurance of my highest consideration.

*For the
Republic of Seychelles*

B. Letter from the Community

Sir,

I am in receipt of your letter of today's date, which reads as follows:

'With reference to the draft Protocol, initialled on 18 January 1996, defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and the financial contribution, I have the honour to inform you that the Republic of Seychelles is ready to apply this Protocol on a provisional basis, with effect from 18 January 1996, pending its entry into force in accordance with Article 6 of the Protocol, provided that the European Community is prepared to do the same.

This is on the understanding that a first instalment equal to one third of the financial compensation specified in Article 2 of the Protocol is to be paid by 31 May 1996.

I should be obliged if you would confirm the European Community's agreement to such provisional application.'

I have the honour to confirm the European Community's agreement to such provisional application of the Protocol.

Please accept, Sir, the assurance of my highest consideration.

*On behalf of
the Council of the European Union*

PROTOCOL

defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

Article 1

Pursuant to Article 2 of the Agreement, and notwithstanding Article 12 of the Agreement relating to further periods of the Agreement, licences to fish simultaneously in Seychelles waters shall be granted to 42 ocean-going tuna seiners and 15 surface longliners not exceeding 37 m length overall, for a period of three years beginning on 18 January 1996.

Article 2

The financial compensation referred to in Article 6 of the Agreement shall be fixed at ECU 6 900 000 for the period provided for in Article 1 of this Protocol, payable in three equal annual instalments. The financial compensation corresponds to a catch of 46 000 tonnes of tuna per year in Seychelles' waters. If the catch by Community vessels in Seychelles' waters exceeds 46 000 tonnes, the Community shall increase the financial compensation proportionately.

Article 3

The Community shall also pay, during the period referred to in Article 1, a contribution of ECU 2 700 000 payable in three equal annual instalments, towards the financing of scientific programmes in the Seychelles to gain greater knowledge of fish stocks concerning the region of the Indian Ocean surrounding the Seychelles Islands, particularly in respect of highly migratory species, and the purchase or maintenance or both, as Seychelles may think fit, of equipment to improve the administrative structure relating to fisheries in Seychelles.

The Seychelles authorities shall forward to the Commission services a brief report on the way that amount is used.

Article 4

The two parties hereby agree that an essential condition for the success of their cooperation is that the skills and know-how of persons engaged in sea fishing be improved. To this end, the Community will assist Seychellois nationals in finding places in establishments in its Member States or States with which it has concluded Cooperation Agreements and will make available an amount of ECU 300 000 for study or practical training awards with a maximum duration of five years in the various scientific, technical and economic subjects relating to fisheries. Of this amount, up to ECU 100 000 may be used, at the request of the Seychelles' authorities, to cover the cost of attending international meetings relating to fisheries.

Article 5

The Protocol and Annex I, dated 18 and 17 January 1990 respectively, 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 repealed and replaced by this Protocol and Annex I.

Article 6

This Protocol and Annex I shall enter into force on the date of their signature.

This Protocol and Annex I shall be applicable from 18 January 1996.

ANNEX I

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:

- (a) the Commission of the European Communities shall present to the Seychelles Fishing Authority, via the representative of the Commission of the European Communities in the 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 the Seychelles, a specimen of which is annexed as Appendix 1;
- (b) every licence shall be issued for one designated vessel. At the request of the European Commission, the licence for a vessel may, and, in cases of *force majeure*, will be replaced by a licence for another Community vessel;
- (c) the licences shall be delivered by the authorities of the Seychelles to the shipowners, or their representatives or agents. The representative of the Commission of the European Communities shall be notified of the licences granted by the authorities of Seychelles;
- (d) the licence document must be held on board at all times; however, on reception of notification of payment of the advance sent to the Seychellois authorities by the European Commission, the vessel shall be entered on a list of vessels authorized to fish, which shall be sent to the Seychellois 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;
- (e) the authorities of the 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

- (a) Licences shall be valid for a period of one year. They are renewable.
- (b) The fee shall be set at ECU 20 per tonne caught within Seychelles' waters. Licences shall be issued following advance payment to Seychelles of a lump sum, per year and for each vessel, of ECU 7 500 for tuna seiners and ECU 500 for surface longliners, equivalent to the fees for respectively 375 tonnes and 25 tonnes caught within the Seychelles' waters per year.
- (c) Surface longliners shall, before the start 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 may exempt the vessel of that requirement.

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

- (d) The Seychelles Fishing Authority (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 before 31 March of the current year to the Commission which 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 Institut français de recherche scientifique pour le développement en coopération (Orstom) or the Spanish Oceanographical Institute (IEO), 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 fisheries authorities before 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. Declaration of catches

- (a) The Community vessels licensed to fish in Seychelles' waters shall complete a fishing form as set out in Appendices 2 and 3, for each fishing trip they undertake in Seychelles' waters. In the absence of catches, the fishing forms shall still be completed.
- (b) For the periods for which a Community vessel referred to in point (a) was not present in Seychelles' waters, it shall provide the abovementioned fishing form with the notation 'Outside Seychelles' EEZ'.
- (c) As far as the release of the fishing forms referred to in points (a) and (b) is concerned, the Community vessels shall:
 - in the case where they call into Port Victoria, submit the completed forms to the Seychelles authorities within five days of arrival in port, 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 must also be sent to the scientific institutes referred to in point 2 (d).

- (d) In the event of failure to comply with these provisions, the sanctions referred to in point 10 will apply.

4. Observers

Tuna seiner vessels shall, at the request of the Seychelles' authorities, take on board a qualified observer designated by the said authorities in order to check the position of the vessel and catches made in Seychelles' waters. Observers shall have all the 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 Seychellois 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 shipowners' expense.

5. Employment of seamen

Each tuna seiner shall take on board at least two Seychelles seamen designated by the Seychelles' authorities, in agreement with the shipowners, during its fishing campaign. The employment contracts of the seamen shall be drawn up in Victoria between the shipowners' representatives and the seamen in agreement with the Seychelles Ministry responsible for employment. This contract shall cover the social security arrangements applicable to the seamen including life, accident and sickness insurance.

6. Landing

Tuna seiners landing in the port of Victoria will endeavour to make their by-catches available to the Seychellois authorities at the local market prices. Furthermore the Community tuna seiners shall participate in supplying tuna to the Seychelles canneries at international market prices.

7. 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, preferably 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 radio frequency shall be indicated on the licence.

A copy of the communications by fax or a record of the radio communications 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 (d).

In the event of failure to comply with these provisions, the sanctions referred to in point 10 will be applicable.

8. Fishing zone

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

9. 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 will lay down, in agreement with the shipowners, the conditions for using port equipment and, if necessary, supplies and services.

10. Sanctions

Failure to observe any one of the above rules or management and conservation of living resources measures, or the Seychelles legislation, may be penalized 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 (b) of this Annex.

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

*Appendix 1***APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE**

Name of applicant:

Address of applicant:

.....

Name and address of charterer of vessel if different from above:

.....

Name and address of other legal representative in Seychelles:

.....

Name and address of master of vessel:

.....

Name of vessel:

Type of vessel:

Length and registered net tonnage of vessel:

Engine type, horsepower and gross registered tonnage:

Port and country of registry:

Registration number:

Fishing vessel external identification:

Radio call sign/signal letters:

Frequency:

Particulars of equipment:

Number and nationality of crew:

Proposed fishing area and species of fish:

.....

Description of fishing operations, joint ventures and other contractual arrangements:

.....

.....

.....

.....

I certify that the above particulars are correct.

Date:

Signature:

STATEMENT OF CATCH FOR TUNA SEINERS

One line per haul whether yielding a catch or not. Enter crosses under INDICATORS and HAUL. Thank you.

[illegible]

Appendix 3

STATEMENT OF CATCH FOR SURFACE LONGLINERS

Name of vessel: Skipper's name:

Date of setting:/...../..... Start of trip:/...../..... at:/...../.....

Trip number: Setting number:

Wind direction:	Force: (Beaufort)
Sea conditions:	Swell:
Surface temperature: °C	Current: speed: Direction:
Moon: New moon + days	Moon rises: (0-24 h)
	Moon sets: (0-24 h)

Setting details

Start time: Finishing time:

Section	Position	Heading	Speed	Remarks
Depart: radio buoy No 1				
Radio buoy No 2				
Radio buoy No 3				
Radio buoy No 4				
Radio buoy No 5				
Radio buoy No 6				
Radio buoy No 7				

Number of hooks:
Length: buoy lines: Branch lines:
Length of line:
Recorded depth of the line (sunder):
Bait: Shrimp: % Mackerel: % : %

Details of catch

	Time (0-24 h)	Latitude	Longitude
Start of turn			
End of turn			

Species	Number	Estimated unit weight	Total weight	Number of fish eaten
Swordfish (*)				
Yellowfin (**)				
Bigeye (**)				
Marlin (**)				
Sailfish (*)				
Seabream				
Shark				
Other (give details)				
Total weight				

Total weight of catch landed (weighed)

(*) VDK.

(**) with head, gilled.

State the type of weight used (VAT, VDK, whole) if different from that specified.