

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 177 final

Brussels, 5 May 1993

Proposal for a COUNCIL DECISION

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 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

Proposal for a COUNCIL REGULATION (EEC)

on the conclusion of the Protocol establishing, for the period from 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol attached to the fishing Agreement between the European Community and the Government of the Republic of São Tomé e Príncipe expires on 31.5.1993. A new Protocol establishing the technical and financial conditions for fishing activity by the EEC fishing fleet in São Tomé e Príncipe waters for the period from 1.6.1993 to 31.5.1996 was initialled by the two Parties on 10.2.1993.

The terms are identical to those of the previous protocol.

On this basis the Commission proposes that the Council adopt:

- by decision, a draft Agreement in the form of an Exchange of Letters concerning the provisional application of the new Protocol pending its definitive entry into force,
- by regulation, the Protocol establishing the fishing opportunities and technical and financing conditions pertaining thereto as agreed by the European Community and Republic of São Tomé e Príncipe for the period 1.6.1993 to 31.5.1996.

Proposal for a

COUNCIL DECISION

of

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 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe⁽¹⁾, which entered into force on 18 April 1985,

Having regard to the proposal from the Commission,

Whereas negotiations have been held between the Community and São Tomé e Príncipe to determine the amendments or additions to be introduced into the Agreement on fishing off São Tomé e Príncipe at the end of the period of application of the Protocol;

Whereas, as a result of these negotiations, a new Protocol was initialled on 10.2.93

Whereas, under that Protocol, Community fishermen have fishing rights in the waters under the sovereignty or jurisdiction of São Tomé e Príncipe for the period 1 June 1993 to 31 May 1996;

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 Protocol in question; whereas the Agreement in the form of an Exchange of Letters should be approved, pending a final decision taken under 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 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe is hereby approved on behalf of the Community.

The text of the Agreement 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 order to bind the Community.

Done at Luxembourg,

For the Council

The President

⁽¹⁾ OJ No L 54, 25. 2. 1984, p. 1.

AGREEMENT

In the form of an Exchange of Letters concerning the provisional application of the Protocol establishing, for the period 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

A. Letter from the Government of the Democratic Republic of São Tomé e Príncipe

Sir,

10 February 1993

With reference to the Protocol initialled on establishing fishing rights and financial compensation for the period 1 June 1993 to 31 May 1996, I have the honour to inform you that the Government of the Democratic Republic of São Tomé e Príncipe is ready to apply this Protocol on a provisional basis, with effect from 1 June 1993, pending its entry into force in accordance with Article 7 of the said Protocol, provided that the European Community is disposed 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 paid by 31 October 1993.

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 Democratic Republic of São Tomé e Príncipe*

B. Letter from the European Community

Sir,

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

10 February 1993

With reference to the Protocol initialled on establishing fishing rights and financial compensation for the period 1 June 1993 to 31 May 1996, I have the honour to inform you that the Government of the Democratic Republic of São Tomé e Príncipe is ready to apply this Protocol on a provisional basis, with effect from 1 June 1993, pending its entry into force in accordance with Article 7 of the said Protocol, provided that the European Community is disposed 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 paid by 31 October 1993.

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
of the European Communities*

5

Proposal for a

COUNCIL REGULATION (EEC) No

of

on the conclusion of the Protocol establishing, for the period from 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission, (1)

Having regard to the opinion of the European Parliament (2)

Whereas, in accordance with the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe (3), which entered into force on 18 April 1985, the two Parties negotiated to determine the amendments or additions to be introduced into the said Agreement at the end of the period of application of the Protocol; (4)

Whereas, as a result of these negotiations, a new Protocol establishing, for the period from 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the aforementioned Agreement was initialled on 10.2.93

Whereas it is in the Community's interest to approve the Protocol referred to in this Agreement,

(1) OJ N°

(2) Opinion delivered on (not yet published in the Official Journal)

(3) OJ No L 54, 25. 2. 1984, p. 1

(4) R (EC) N° 1295/91 of 14.5.1991, OJ N° 123 of 18.5.1991, p. 1

Article 1

The Protocol establishing, for the period from 1 June 1993 to 31 May 1996, the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation

Article 2

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

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President

PROTOCOL

establishing fishing rights and financial compensation
for the period from 1 June 1993 to 31 May 1996

Article 1

For a period of three years from 1 June 1993, the fishing rights granted pursuant to Article 2 of the Agreement shall be 40 freezer tuna seiners and eight pole-and-line wet tuna vessels or surface long-liners.

Article 2

1. The financial compensation referred to in Article 6 of the Agreement shall be, for the period referred to in Article 1, ECU 1 650 000, payable in three equal annual instalments. That amount shall cover an annual catch of 9 000 tonnes in São Tomé e Príncipe waters. If the tuna caught by Community vessels in São Tomé e Príncipe waters exceeds that weight, the abovementioned amount shall be increased proportionately.

2. The use to which this compensation is put shall be the sole responsibility of the Government of the Democratic Republic of São Tomé e Príncipe. It shall be paid into an account with the National Bank of São Tomé e Príncipe.

Article 3

1. The Community shall contribute during the period referred to in Article 1 the sum of ECU 250 000 towards the financing of scientific and technical programmes to improve biological and fishery resource information as regards the exclusive economic zone of São Tomé e Príncipe.

2. These programmes shall be drawn up jointly by the competent authorities of São Tomé e Príncipe and the Community, which will, if necessary, participate in their implementation. Once the content of the programmes has been approved, they shall be financed by payments into an account indicated by the competent authorities of São Tomé e Príncipe.

3. The competent authorities of São Tomé e Príncipe shall send to the Commission of the European Communities a report on the implementation of the approved programmes and the results obtained. The Commission of the European Communities reserves the right to request any further scientific information from the authorities of São Tomé e Príncipe.

Article 4

1. 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:

- a) make it easier for nationals of São Tomé e Príncipe 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. These awards may also be used by any State linked to the Community by a Cooperation Agreement;
- b) cover São Tomé e Príncipe's participation in the Regional Fisheries Committee for the Gulf of Guinea and Iccat;
- c) cover its participation in international meetings or training courses on fisheries.

2. The cost of these measures may not exceed ECU 275 000. This sum shall be paid to the account indicated by the Ministry of Commerce, Industry, Tourism and Fisheries in three equal annual instalments. That Ministry shall manage all the measures financed in this way referred to in paragraph 1 and shall submit to the Commission a detailed report on the use made of these funds.

Article 5

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

Article 6

The Annex to the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off São Tomé e Príncipe is hereby repealed and replaced by the Annex to this Protocol.

Article 7

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

It shall apply from 1 June 1993.

ANNEX

Conditions for the exercise of fishing activities
by Community vessels in São Tomé e Príncipe's fishing zone

1. The procedure for applications for and issue of the licences referred to in Article 4 of the Agreement shall be as follows:

The relevant Community authorities shall present to the Ministry for Commerce, Industry, Tourism and Fisheries of São Tomé e Príncipe, via the Commission Delegation responsible for São Tomé e Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 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 Government of the Democratic Republic of São Tomé e Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé e Príncipe authorities within 20 days following submission of the application to the shipowners or their representatives via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

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 Commission of the European Communities, 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 Ministry of Commerce, Industry, Tourism and Fisheries of São Tomé e Príncipe via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

The new licence shall indicate:

- the date of issue;
- the fact that this licence replaces that of the first vessel, for the period of validity remaining. In this case, no new lump sum as laid down in paragraph 5 below shall be due.

The licence must be held on board at all times.

2. Licences shall be valid for one year and shall be renewable.

3. The fees provided for in Article 4 of the Agreement shall be set at ECU 20 per tonne caught in São Tomé e Príncipe's fishing zone.

4. The competent authorities of São Tomé e Príncipe shall indicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.

5. Licences shall be issued following payment to the National Bank of São Tomé e Príncipe of a lump sum of ECU 1 500 for each freezer tuna seiner per year and ECU 200 for each pole-and-line tuna vessel or surface long-liner per year, equivalent to the fees for:

- 75 tonnes of tuna caught per freezer tuna seiner per year,
- 10 tonnes of tuna caught per pole-and-line tuna vessel or surface long-liner per year;

6. The final statement of the fees due for the fishing period shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made for each vessel and confirmed by the competent scientific institutes, namely the French Institut de la recherche scientifique et technique d'outre-mer (Orstom) and the Instituto Español de Oceanografía (IEO). The statement shall be forwarded simultaneously to the competent authorities of São Tomé e Príncipe and to the shipowners. Any additional payment due shall be made by the shipowners to the National Bank of São Tomé e Príncipe no later than 30 days after notification of the final statement. However, if the amount of the final statement is lower than the advance referred to in paragraph 5 above, the resulting balance shall not be reimbursable to the shipowner.

7. Community vessels shall keep a fishing log, in accordance with the model in Appendix 2, for each fishing period spent in São Tomé e Príncipe's fishing zone. The form shall be sent to the Ministry of Commerce, Industry, Tourism and Fisheries, via the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe, within 45 days of the end of the fishing trip spent in the São Tomé e Príncipe fishing zone.

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

8. Every time they enter or leave São Tomé e Príncipe's fishing zone, Community vessels shall communicate the volume of catch held on board at that time to the radio station on São Tomé e Príncipe. The call sign shall be communicated to shipowners when the licence is issued.

A vessel caught fishing without having notified the radio of São Tomé e Príncipe shall be considered an unlicensed vessel.

In cases where this radio communication cannot be used, vessels may use alternative means such as telex or fax.

9. Tuna seiners shall endeavour on a voluntary basis to make any by-catches available to the São Tomé e Príncipe authorities at a price fixed by mutual agreement.

10. Vessels shall allow on board observers at the request of the authorities of São Tomé e Príncipe. Observers should not remain on board any longer than the time needed to carry out spot checks on the catch. The master of the vessel shall take all necessary steps to facilitate the task of the observers on board.

At the request of the authorities of São Tomé e Príncipe, owners of tuna fishing vessels shall endeavour to sign on three São Tomé e Príncipe seamen for all the Community tuna seiners; all such seamen to be assigned to different vessels. The conditions of employment and remuneration shall be fixed by mutual agreement between the shipowners and representatives of the seamen.

11. The international standards on tuna fishing as recommended by Iccat shall apply.

12. The Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe shall be notified within 48 hours of any boarding within São Tomé e Príncipe's fishing zone of a fishing vessel flying the flag of a Member State of the Community and operating under this Agreement.

A brief report of the circumstances and reasons leading to the boarding must be submitted within 72 hours.

Appendix 1

DEMOCRATIC REPUBLIC OF SÃO TOMÉ E PRÍNCIPE

MINISTRY OF AGRICULTURE AND FISHERIES

FISHING LICENCE APPLICATION No

Name of applicant:

Address of applicant:

Name and address of shipowner:

Name and address of any representative in São Tomé e Príncipe:

Name of vessel:

Type of vessel:

Country of registration:

Port and registration number:

External identification of vessel:

Radio call sign and frequency:

Length of vessel:

Width of vessel:

Engine type and rating:

Hold capacity:

Minimum crew:

Type of fishing:

Species to be fished:

Period of validity sought:

'I hereby certify that this information is correct and that I know and agree with and undertake to observe and enforce the laws of the Democratic Republic of São Tomé e Príncipe concerning fishing and the sea, and all applicable international legislation.'

Date:

The Applicant

.....

12b

12b

12b

12b

FINANCIAL STATEMENT		DATE :	
1. BUDGET HEADING : B7-800		APPROPRIATIONS :	
2. TITLE : New EC/São Tomé e Príncipe protocol			
3. LEGAL BASIS : EC/São Tomé e Príncipe agreement on fishing off the São Tomé coast			
4. AIMS OF PROJECT : Protocol for a period of 3 years : - financial compensation - scientific programme - study programme			
5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (93)	FOLLOWING FINANCIAL YEAR (94)
5.0. EXPENDITURE - charged to the EC budget (refunds/intervention) - national administration - other		725.000 ECU (annual average)	725.000 ECU (annual average)
5.1. REVENUE - own resources of the EC (levies/customs duties) - national			
5.0.1. ESTIMATED EXPENDITURE			
5.1.1. ESTIMATED REVENUE			
5.2. METHOD OF CALCULATION : - financial contribution : 1.650.000 ECU - scientific programme : 250.000 ECU - study grants : 275.000 ECU ----- Financial compensation : 2.175.000 ECU Average annual cost : 725.000 ECU			
6.0. CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET ?			YES/ NO
6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET ?			YES /NO
6.2. IS A SUPPLEMENTARY BUDGET NECESSARY ?			YES /NO
6.3. WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY ?			YES/ NO
OBSERVATIONS :			

ISSN 0254-1475

COM(93) 177 final

DOCUMENTS

EN

11 03

Catalogue number : CB-CO-93-205-EN-C

ISBN 92-77-55259-X

Office for Official Publications of the European Communities
L-2985 Luxembourg