

PROTOCOL

establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Community and the Government of the Democratic Republic of São Tomé e Príncipe on fishing off the coast of São Tomé e Príncipe for the period 1 June 1996 to 31 May 1999 ⁽¹⁾

Article 1

For the period of three years from 1 June 1996, the fishing rights granted pursuant to Article 2 of the Agreement shall be 37 freezer tuna seiners, seven pole-and-line tuna vessels and 25 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 1 800 000, 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 by ECU 50 for each additional tonne caught.

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. In addition to the amount referred to in Article 2, the Community shall finance, during the period referred to in Article 1, scientific and technical programmes to improve biological and fishery resource information as regards the exclusive economic zone of São Tomé e Príncipe up to an amount of ECU 187 500.

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, in addition to the amount referred to in Article 2:

- (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 up to an amount of ECU 35 000 in 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 up to an amount of ECU 90 000;
- (c) bear the costs of participation in international meetings or training courses on fisheries up to an amount of ECU 62 500.

2. These sums shall be paid into the account indicated by the Ministry of Agriculture 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.

⁽¹⁾ See Decision 96/623/EC (OJ No L 279, 31. 10. 1996, p. 30).

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 the coast of 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 1996.

ANNEX

Conditions for the exercise of fishing activities by Community vessels in São Tomé e Príncipe 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 of Agriculture 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, as 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 of 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, at the request of the Commission of the European Communities, a vessel's licence may, and where *force majeure* is proved, 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 Agriculture 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 shall be due.

The licence must be on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé e Príncipe authorities by the European Commission, the vessel shall be entered on a list of vessels authorized to fish, which shall be sent to the São Tomé e Príncipe authorities responsibilities for fisheries inspection. Pending receipt of the licence, a copy may be obtained by fax and should be kept on board.

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 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 3 000 for each freezer tuna seiner per year and ECU 500 for each pole-and-line tuna vessel or surface long-liner per year, equivalent to the fees for:
 - 150 tonnes of tuna caught per freezer tuna seiner per year,
 - 25 tonnes of tuna caught per pole-and-line tuna vessel or surface long-liner per year.

6. A fishing log in accordance with the ICCAT model in Annex 2 shall be kept on vessels for each fishing period spent in São Tomé e Príncipe's waters. It shall be filled in even when no catches are made.

The words 'Outside São Tomé e Príncipe's EEZ' shall be entered in the abovementioned log-book in respect of periods during which the said vessels are not in São Tomé e Príncipe waters.

The log-books referred to in this paragraph shall be sent to the Ministry of Agriculture and Fisheries within 15 working days of vessels arriving in a port.

Copies of these documents shall be sent to the scientific institutes referred to in the third subparagraph of paragraph 7 below and to the Delegation of the Commission of the European Communities responsible for São Tomé e Príncipe.

7. The São Tomé e Príncipe authorities shall draw up the statement of fees due for the past calendar year on the basis of the catch declarations for each Community vessel and of any other information in their possession.

The previous year's statement shall reach the Commission by 31 March which shall forward it simultaneously to the shipowners and national authorities of the Member States concerned by 15 April.

Where the shipowners dispute the statement presented by São Tomé e Príncipe they may request the relevant scientific institutes, e.g. France's Institut de la Recherche Scientifique at Technique d'Outre-Mer (ORSTOM) and the Instituto Español de Oceanografía (IEO), to verify the catch data before consulting with the São Tomé e Príncipe authorities with a view to drawing up the final statement by 15 May of the current year. In the absence of any observations from the shipowners by that date, the statement drawn up by the São Tomé e Príncipe authorities shall be deemed final. Member States shall forward to the Commission the final statements relating to their own fleets.

Any payment due in addition to the advance shall be made by the shipowners to the National Bank of São Tomé e Príncipe no later than 31 May of that year.

However, if the amount of the final statement is lower than the advance referred to in paragraph 5, the resulting balance shall not be reimbursable to the shipowner.

8. Within three hours of entering or leaving the zone and every three days during their fishing activities in São Tomé e Príncipe's waters, vessels shall be obliged to communicate their position and the volume of the catch on board direct to the São Tomé e Príncipe authorities preferably by fax or, failing that, by radio in the case of vessels not equipped with fax.

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

A copy of the fax messages or of the record of radio communications shall be kept by the São Tomé e Príncipe authorities and the shipowners until both parties have approved the final statement of fees referred to in paragraph 7.

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

9. Tuna seiners shall endeavour to make any by-catches available to the São Tomé e Príncipe authorities at prices fixed by mutual agreement.
10. Vessels shall allow on board observers at the request of the authorities of São Tomé e Príncipe. Observers must not remain on board for longer than 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. The salary and the social security contributions of the observer shall be borne by the competent authorities of São Tomé e Príncipe. Should the observer be taken on board in a foreign port, his travelling costs shall be borne by the shipowner. Should a vessel with an observer from São Tomé e Príncipe on board leave the São Tomé e Príncipe fishing zone, all measures must be taken to ensure the observer's return to São Tomé e Príncipe as soon as possible at the expense of the shipowner.

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 shall 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

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