

PROTOCOL

establishing, for the period from 1 January 1994 to 31 December 1995, 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 1994, the fishing rights granted under Article 2 of the Agreement shall be as follows:

1. trawlers: 4 200 GRT a month, annual average;
2. freezer tuna seiners: 24 vessels;
3. pole-and-line tuna vessels and surface longliners: 10 vessels;
4. surface longliners: five 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 1 700 000, payable in two equal annual instalments.

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 450 000 towards the financing of a Guinean scientific or technical programme to improve information on the fishery resources within the exclusive economic zone of the Republic 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 550 000. 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, or to strengthen the administrative infrastructure of the fisheries department. The sum shall be payable as and when it is used.

Article 6

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

Article 7

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 8

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

It shall be applicable from 1 January 1994.

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 Office of the Ministry for Fisheries of the Republic of Guinea, 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 Government of the Republic of Guinea, 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 Guinean authorities 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 Office of the Ministry for Fisheries of the Republic of Guinea via the authorities 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.

1. 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) For the duration of this Protocol the fees for annual licences shall be as follows:

- ECU 126/GRT per year for fin-fish trawlers,
- ECU 150/GRT per year for cephalopod trawlers,
- ECU 152/GRT per year for shrimp trawlers.

Payment may be made in quarterly or half-yearly instalments at a fee 5% and 3% higher respectively.

(b) For the duration of this Protocol the fees for half-yearly licences shall be as follows:

- ECU 82/GRT per half-year for fin-fish trawlers,
- ECU 97/GRT per half-year for cephalopod trawlers,
- ECU 99/GRT per half-year for shrimp trawlers.

However, vessels failing to land 100 kg of fish per GRT per quarter 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 Office of the Ministry for Fisheries 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 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 scientific institutes responsible for verifying catch data (Orstom and Spanish Institute of Oceanography) (IEO)). The statement shall be forwarded simultaneously to the Office of the Ministry for Fisheries and to the shipowners. Any additional payment due shall be made by the shipowners to the Office of the Ministry for Fisheries of Guinea 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 Office of the Ministry for Fisheries, 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 Guinea fishing zone, to the Office of the Ministry for Fisheries 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 Government of the Republic of Guinea 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 Guinea 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 100 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 Guinea 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 Guinea 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 Guinea 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 Guinea 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 Guinea nationals, subject to the conditions and limits set out below:

1. each trawler owner shall undertake to employ:
 - three seamen/fishermen on vessels of up to 350 GRT,
 - a number of seamen/fishermen 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 Guinea seamen shall be signed on permanently;
3. for the fleet of pole-and-line tuna vessels, three Guinea seamen shall be signed on for the tuna-fishing season in the Guinea fishing zone, all of them to be assigned to different vessels;
4. for the fleet of surface longliners, the shipowners undertake to employ two fishermen per boat;
5. the wages of these seamen/fishermen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the Office of the Ministry for Fisheries; 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 Office of the Ministry for Fisheries a lump sum equivalent to the wages of seamen not signed on.

This sum will be used for the training of seamen/fishermen in Guinea and is to be paid into an account specified by the Guinean authorities.

F. Taking on board of seamen/observers

1. The seamen/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. For each trawler the Office of the Ministry for Fisheries shall designate one of the Guinean seamen signed on to discharge the additional function of observer.

The master of the vessel shall facilitate the work of the seaman/observer outside the actual fishing operations. The seaman/observer shall be paid by the owner as a seaman in line with the terms in force.

The seaman/observer 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 Office of the Ministry for Fisheries. 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 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 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 12 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) 40 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.

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 Office of the Ministry for Fisheries the date and time and their position when entering and leaving the Guinea fishing zone.

The call sign and operating frequencies and times of the station shall be communicated to the shipowners by the Office of the Ministry for Fisheries at the time the licence is issued.

In cases where this radio communication cannot be used, vessels may use alternative means, such as telex (No 22315) or telegram.

K. Procedure in case of boarding

1. The Delegation of the Commission of the European Communities in Guinea shall be notified within 48 hours of any boarding within the Guinea 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 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 48 hours of receipt of the abovementioned information, between the Delegation of the Commission of the European Communities, the Office of the Ministry 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, 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).

6. Should one of the Parties consider that there is a difficulty in the application of the abovementioned procedure, it may request urgent consultations under Article 10 of the Agreement.

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:

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No of employees:

Name and address of co-signatory:

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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	<input type="checkbox"/>	Sonar	<input type="checkbox"/>	Netsonde	<input type="checkbox"/>
VHF	<input type="checkbox"/>	SSB	<input type="checkbox"/>	Netsonde satellite navigation	<input type="checkbox"/>
					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:

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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:

Technical remarks

Authorization of the Ministry for Fisheries

