

Official Journal

of the European Communities

ISSN 0378 - 6978

L 212

Volume 33

9 August 1990

English edition

Legislation

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2321/90

of 24 July 1990

on the conclusion of the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off Cape Verde

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 155 (2) (b) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas the Community and Cape Verde have negotiated and initialled an Agreement on fishing which provides fishing opportunities for Community fishermen in waters over which Cape Verde has sovereignty or jurisdiction;

Whereas, pursuant to Article 155 (2) (b) of the Act of Accession, it is for the Council to determine the procedures appropriate to take into consideration all or part of the interests of the Canary Islands when it adopts decisions, case by case, particularly with a view to the conclusion of fisheries agreements with third countries; whereas the case in point calls for the said procedures to be determined;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement between the European Economic Community and the Republic of Cape Verde on fishing

⁽¹⁾ Opinion delivered on 13 July 1990 (not yet published in the Official Journal).

off Cape Verde is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Regulation.

Article 2

With a view to taking into consideration the interests of the Canary Islands, the Agreement referred to in Article 1 and, in so far as is necessary for its application, the provisions of the common fisheries policy relating to the conservation and management of fishery resources shall also apply to vessels which sail under the flag of Spain, which are recorded on a permanent basis in the registers of the relevant authorities at local level ('registros de base') in the Canary Islands, under the conditions specified in Note 6 to Annex I to Council Regulation (EEC) No 1135/88 of 7 March 1988 concerning the definition of the concept of 'originating products' and methods of administrative cooperation in trade between the customs territory of the Community, Ceuta and Melilla and the Canary Islands ⁽²⁾, as amended by Regulation (EEC) No 3902/89 ⁽³⁾.

Article 3

The President of the Council shall give the notification provided for in Article 14 of the Agreement ⁽⁴⁾.

Article 4

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

⁽²⁾ OJ No L 114, 2. 5. 1988, p. 1.

⁽³⁾ OJ No L 375, 23. 12. 1989, p. 5.

⁽⁴⁾ The date of entry into force of the Agreement will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

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

Done at Brussels, 24 July 1990.

For the Council
The President
C. MANNINO

AGREEMENT**between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde**

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter referred to as the 'Community', and

THE REPUBLIC OF CAPE VERDE,

hereinafter referred to as 'Cape Verde',

CONSIDERING the spirit of cooperation resulting from the Convention between the African, Caribbean and Pacific countries and the European Economic Community (ACP-EEC Convention) and the joint wish for closer relations between the Community and Cape Verde,

CONSIDERING Cape Verde's desire to promote the rational exploitation of its fishery resources by means of increased cooperation,

RECALLING that, in respect of sea fishing, Cape Verde exercises its sovereign rights or jurisdiction over a zone extending up to 200 nautical miles from its coast,

TAKING INTO ACCOUNT the provisions of the United Nations Convention on the Law of the Sea,

DETERMINED to conduct their fisheries relations in a spirit of mutual trust and respect for each other's interests,

DESIROUS of establishing the conditions and terms governing fishing activities of mutual interest to the Parties,

HAVE AGREED AS FOLLOWS:

Article 1

The purpose of this Agreement is to establish the principles and rules which will govern in future, in all respects, the fishing activities of vessels flying the flags of Member States of the Community, hereinafter referred to as 'Community vessels', in the waters over which Cape Verde has sovereignty or jurisdiction in accordance with the provisions of the United Nations Convention on the Law of the Sea and other provisions of international law, hereinafter referred to as the 'Cape Verde fishing zone'.

Article 2

Cape Verde shall permit fishing activities by Community vessels in the Cape Verde fishing zone in accordance with this Agreement.

Article 3

1. The Community undertakes to take all necessary steps to ensure that its vessels adhere to the provisions of this Agreement and the laws governing fishing activities in the Cape Verde fishing zone in accordance with the provisions of the United Nations Convention on the Law of the Sea and other provisions of international law.

2. The Cape Verdean authorities shall notify the Commission of the European Communities of any changes to the said laws prior to their application.

3. The steps taken by the Cape Verdean authorities to regulate fishing in the interests of conservation shall be based on objective and scientific criteria and shall apply both to Community vessels and to other foreign vessels, without prejudice to agreements concluded between developing countries within a single geographical region, including reciprocal fisheries agreements.

Article 4

1. Fishing activities by Community vessels in the Cape Verde fishing zone shall be subject to possession of a licence issued by the relevant Cape Verdean authorities at the Community's request.

2. The issue of a licence shall be subject to payment of a fee by the shipowner concerned.

3. The procedure for licence applications, the fees payable and arrangements for payment are set out in the Annex.

Article 5

The Parties undertake to coordinate either directly or within international organizations their efforts to ensure the

management and conservation of living resources in the Central East Atlantic, particularly with regard to highly migratory species, and to facilitate the relevant scientific research.

Article 6

The masters of the vessels authorized under the terms of this Agreement to fish in the Cape Verde fishing zone shall be obliged to send their statements of catch to the Cape Verdean authorities, with a copy to the Delegation of the Commission of the European Communities in Praia, in accordance with the provisions set out in the Annex.

Article 7

In return for the fishing rights granted pursuant to Article 2, the Community shall make a financial contribution to Cape Verde in accordance with the procedure stipulated in the Protocol attached to this Agreement, without prejudice to financing accorded to Cape Verde under the ACP-EEC Convention.

Article 8

If, as a result of the changing stocks situation, the Cape Verdean authorities decide to apply conservation measures affecting the fishing activities of Community vessels, the Parties shall consult each other with a view to adjusting the Annex and the Protocol.

These consultations shall be based on the principle that any reduction of the fishing rights laid down in the said Protocol must entail a proportional reduction in the financial compensation payable by the Community.

Article 9

A joint committee shall be set up to ensure that this Agreement is properly applied. The committee shall meet, alternatively in Cape Verde and the Community, at the request of either of the Contracting Parties.

The Parties shall consult each other on any dispute regarding the interpretation or application of this Agreement.

Article 10

Nothing in this Agreement shall affect or prejudice in any manner whatsoever the views of either Party with respect to any matter relating to the law of the sea.

Article 11

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Cape Verde.

Article 12

The Annex and the Protocol to this Agreement form an integral part thereof and, unless otherwise specified, any reference to this Agreement constitutes a reference to them.

Article 13

1. This Agreement shall be concluded for an initial period of three years from the date of its entry into force. Unless one of the Parties ends it by giving notice to that effect six months before the end of the initial period, it shall be extended for further periods of two years, unless denounced by notice given at least three months before the end of any such two-year period.

2. At the end of the initial period, and subsequently of each two-year period, the Contracting Parties shall enter into negotiations to determine by common agreement what amendments or additions to the Annex or Protocol are required.

The Parties shall enter into negotiations in the event of either of them denouncing the Agreement.

Article 14

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose.

Article 15

This Agreement, drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, all the texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities, which shall transmit a certified copy to each of the Contracting Parties.

ANNEX

CONDITIONS FOR THE EXERCISE OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN THE
CAPE VERDE FISHING ZONE

A. Licence application and issuing formalities

1. The relevant Community authorities shall present to the Office of the Secretary of State for Fisheries of Cape Verde, via the Commission Delegation in Cape Verde, an application for each vessel that is to be used for fishing under the Agreement, at least 15 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 Office of the Secretary of State for Fisheries of Cape Verde, a specimen of which is attached hereto (Appendix 1).

2. 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 an account opened with a financial institution or any other body designated by the Cape Verdean authorities.

The fees shall include all national and local charges except for port taxes and service charges.

3. Licences for all vessels shall be issued by the Office of the Secretary of State for Fisheries of Cape Verde, within 15 days following receipt of proof of payment as laid down in point 2, to the shipowners or their representatives via the Delegation of the Commission of the European Communities in Cape Verde.
4. 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 in the case of *force majeure* shall, be replaced by a new licence for another vessel with features similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the Office of the Secretary of State for Fisheries of Cape Verde via the Delegation of the Commission of the European Communities in Cape Verde.

The new licence shall indicate:

- the date of issue,
- the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no fee as laid down in Article 4 (2) of the Agreement shall be due for unexpired period of validity.

5. The licence must be held on board at all times.
6. The Office of the Secretary of State for Fisheries of Cape Verde shall give notice, before the Agreement enters into force, of the arrangements for payment of the fee, including information on bank accounts and the currencies to be used.

B. Provisions applicable to licences for tuna vessels and surface longliners

1. Licences shall be valid for one year. They shall be renewable.
2. The fee shall be set at ECU 20 per tonne caught within the Cape Verde fishing zone.
3. Licences shall be issued following payment to the Office of the Secretary of State for Fisheries of Cape Verde 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 payable for a catch of:
 - 75 tonnes of tuna per year in the case of seiners,
 - 15 tonnes per year in the case of pole-and-line tuna vessels and surface longliners.
4. 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 relevant scientific institutes, including the Institut français de recherche

scientifique et technique d'outre-mer (ORSTOM), the Instituto Español de Oceanografía (IEO) and the Instituto Nacional de Investigación das Pescas (INIP) of Cape Verde.

The statement shall be forwarded simultaneously to the Office of the Secretary of State for Fisheries of Cape Verde and to the shipowners. Any additional payment due shall be made by the shipowners to the Office of the Secretary of State for Fisheries of Cape Verde no later than 30 days after notification of the final statement, to be paid into the account opened with a financial institution or any other body designated by the Cape Verdean authorities.

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

C. Provisions applicable to licences for other vessels

1. In the case of bottom longliners, licences shall be valid for three, six or 12 months. The annual fee shall be fixed according to GRT, at the rate of ECU 100 per GRT, in proportion to the duration of the licence.
2. In the case of vessels carrying out experimental cephalopod fishing, the fee shall be set at ECU 60 per GRT per year.

D. Statement of catch

1. For tuna seiners, pole-and-line tuna vessels and surface longliners a fishing log shall be kept, in accordance with the model in Appendix 2, for each fishing period spent in the Cape Verde fishing zone. The form must be sent, within 45 days of the end of the fishing voyage spent in the Cape Verde fishing zone, to the Office of the Secretary of State for Fisheries of Cape Verde via the Delegation of the Commission of the European Communities in Cape Verde.
2. Bottom longliners and vessels carrying out experimental cephalopod fishing shall be obliged to notify the Office of the Secretary of State for Fisheries of Cape Verde of their catches using the standard form set out in Appendix 3 via the Delegation of the Commission of the European Communities in Cape Verde. These statements shall be monthly and must be communicated at least once every three months.
3. Forms must be completed legibly and be signed by the master of the vessel.
4. Should these provisions not be adhered to, the relevant Cape Verdean authorities reserve the right to apply, *inter alia*, one or both of the following penalties:
 - suspension of the licence of the offending vessel,
 - imposition of a fine.

In this case, the Delegation of the Commission of the European Communities in Cape Verde shall be informed.

E. Landing of catch

Community tuna vessels shall, wherever possible, contribute towards supplying the Cape Verde tuna canning factories in accordance with their catches in the zone at a price fixed by mutual agreement between the Community shipowners and the Cape Verdean fishing authorities on the basis of current prices on the international market. Payment shall be made in convertible currency.

Moreover, tuna vessels landing their catches in a Cape Verdean port shall, wherever possible, make part of their by-catch available to the fishing authorities of Cape Verde at local market prices.

F. Signing-on of seamen

1. Tuna vessel and surface longliner owners shall employ Cape Verdean nationals, subject to the following conditions and limits:
 - for the fleet of tuna seiners, three Cape Verdean seamen shall be signed on during the tuna fishing period in the Cape Verde fishing zone,
 - for the fleet of pole-and-line tuna vessels, eight Cape Verdean seamen shall be signed on during the tuna fishing period in the Cape Verde fishing zone, all of them to be assigned to different vessels,

— for the fleet of surface longliners, two Cape Verdean seamen shall be signed on during the fishing period in the Cape Verde fishing zone, each of them to be assigned to different vessels.

2. The wages of these seamen shall be fixed, before licences are issued, by mutual agreement between the shipowners or their representatives and the relevant Cape Verdean authorities; 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).
3. Should the seamen not be signed on, shipowners shall be obliged to pay a lump sum equivalent to the wages of seamen not signed on.

This sum will be used for the training of seamen in Cape Verde and is to be paid into the account specified by the relevant Cape Verdean authorities.

G. Taking on board of observers

1. At the request of the relevant Cape Verdean authorities, vessels of more than 150 GRT shall take on board an observer appointed by the said authorities, whose task shall be to check on catches in the Cape Verde fishing zone. He shall be offered every facility needed to carry out his duties, including access to premises and documents. 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. The salary and the social contributions of the observer shall be borne by the relevant Cape Verdean authorities.

2. The work of the observer and the conditions under which he is taken on board must not interrupt or hamper fishing activities. The port in which the observer is taken on board shall be determined by mutual agreement between the relevant Cape Verdean authorities and the shipowner or his representative. Should the observer be taken on board in a foreign port, his travelling costs shall be borne by the shipowner. Should a tuna vessel with an observer on board leave the Cape Verde fishing zone, all measures must be taken to ensure the observer's return to Cape Verde as soon as possible at the expense of the shipowner.

H. Fishing zones

1. Community vessels may carry out fishing activities in the following zones, determined by reference to the base lines:
 - beyond 12 miles for tuna seiners and surface longliners,
 - beyond six miles for pole-and-line tuna vessels,
 - from the base lines for live bait fishing and for bottom longliners.
2. Cephalopod vessels carrying out experimental fishing shall have access to all the Cape Verde fishing zones.

I. Meshes authorized

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

- 16 mm for live bait fishing,
- 40 mm for cephalopods.

In the case of tuna, the international standards recommended by ICCAT shall apply.

J. Entering and leaving the zone

1. All Community vessels fishing under the Agreement in the Cape Verde zone shall communicate to the Saõ Vicente radio station the date and time and their position when entering and leaving the Cape Verde fishing zone.
2. While fishing in the Cape Verde zone, vessels shall notify their position and their catch to the relevant Cape Verdean authorities every three days via the Saõ Vicente radio station, and give their total catch each time they leave the zone.

3. The call sign and operating frequencies and working hours of the station shall be communicated to the shipowners or their representatives by the Office of the Secretary of State for Fisheries of Cape Verde at the time the licence is issued.
4. In cases where this radio communication cannot be used, vessels may use alternative means, such as telex or telegram.

K. Port equipment and use of supplies and services

Community vessels shall, where possible, procure in Cape Verde all supplies and services necessary for their activities. The relevant Cape Verdean authorities shall, in agreement with the shipowners or their representatives, establish the conditions for using port equipment and, if necessary, supplies and services.

L. Procedure in case of boarding

1. The Delegation of the Commission of the European Communities in Cape Verde shall be notified within 48 hours of any boarding within the Cape Verde 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 provided within 72 hours.
2. A meeting shall be held, within 24 hours of receipt of the abovementioned information, between the Delegation of the Commission of the European Communities in Cape Verde, the Office of the Secretary of State for Fisheries of Cape Verde and the inspection authorities, possibly attended by a representative of the Member State concerned, at which the parties shall exchange any relevant documentation or information 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. A vessel boarded following a fisheries infringement shall be released upon payment of a security, to be fixed in the light of the costs occasioned by the boarding and the amount of fines and compensation to which those responsible for the infringement are liable.

*Appendix 1***OFFICE OF THE SECRETARY OF STATE FOR FISHERIES****Licence application for foreign industrial fishing vessels**

1. Name of shipowner:
2. Address of shipowner:
3. Name of representative or local agent of shipowner:
4. Address of representative or local agent of shipowner:
5. Name of master:
6. Name of vessel:
7. Registration number:
8. Date and place of construction:
9. Flying the flag of:
10. Port of registration:
11. Port of rigging:
12. Overall length:
13. Width:
14. Gross tonnage:
15. Net tonnage:
16. Hold capacity:
17. Chilling or freezing capacity:
18. Engine type and horse power:
19. Type of fishing:
20. Crew complement:
21. Communication equipment:
22. Call sign:
23. Dialling signals:
24. Fishing operations to be carried out:
25. Place for landing catch:
26. Fishing zones:
27. Species to be caught:
28. Period of validity:
29. Special conditions:

30. Other activities of the applicant in Cape Verde:

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Opinion of the Directorate-General for Fisheries

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Office of the Secretary of State for Fisheries

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PROTOCOL

establishing the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde

Article 1

1. Pursuant to Article 2 of the Agreement and for a period of three years, fishing rights shall be as follows:

- (a) Highly migratory species
- Freezer tuna seiners: 21 vessels,
 - Pole-and-line tuna vessels and surface longliners: 24 vessels.

At the Community's request, the allocation of fishing rights for highly migratory species for the second year of application of this Protocol may be altered for a maximum of 15% of the vessels concerned.

- (b) Other species
- Bottom longliners: two vessels, each with a tonnage of less than 210 GRT,
 - Experimental cephalopod fishing: two vessels.

2. The first meeting of the joint committee referred to in Article 9 of the Agreement to be held during the second year of application of this Protocol shall examine the available results of the experimental cephalopod fishing.

Article 2

1. For the period referred to in Article 1, the financial compensation referred to in Article 7 of the Agreement shall be ECU 1 950 000, payable in three equal annual instalments.

2. The use to which this compensation is put shall be the sole responsibility of the Cape Verdean authorities.

3. The compensation shall be paid into an account opened with a financial institution or any other body designated by the Cape Verdean authorities.

Article 3

The shipowners concerned shall retain full property rights over catches made as part of the experimental cephalopod fishing.

Article 4

The Community shall also contribute during the period referred to in Article 1 the sum of ECU 500 000 towards the financing of a Cape Verde scientific or technical programme (equipment, infrastructure, seminars, studies, etc.) to improve information on the fishery resources within the exclusive economic zone of Cape Verde.

This sum shall be made available to the Office of the Secretary of State for Fisheries of Cape Verde and paid into the bank account indicated by the Office.

Article 5

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 make it easier for nationals of Cape Verde 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.

2. The total cost of the awards may not exceed ECU 160 000. At the request of the Cape Verdean authorities, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries. 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.

COUNCIL REGULATION (EEC) No 2322/90

of 24 July 1990

on the conclusion of the Protocol establishing, for the period 1 January 1990 to 31 December 1991, 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 coast of Guinea

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,

Article 1

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 155 (2) (b) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

The Protocol establishing, for the period 1 January 1990 to 31 December 1991, 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 Community.

The text of the Protocol is attached to this Regulation.

Article 2

Whereas, pursuant to the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast ⁽²⁾, signed in Conakry on 7 February 1983, as last amended by the Agreement signed in Brussels on 28 July 1987 ⁽³⁾ and extended until 31 December 1989 by an Agreement in the form of an exchange of letters, the two Parties 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 to the Agreement;

With a view to taking into consideration the interests of the Canary Islands, the Agreement referred to in Article 1 and, in so far as is necessary for its application, the provisions of the common fisheries policy relating to the conservation and management of fishery resources shall also apply to vessels flying the flag of Spain, which are recorded on a permanent basis in the registers of the relevant authorities at local level ('registros de base') in the Canary Islands, under the conditions specified in Note 6 to Annex I to Council Regulation (EEC) No 1135/88 of 7 March 1988 concerning the definition of the concept of 'originating products' and methods of administrative cooperation in trade between the customs territory of the Community, Ceuta and Melilla and the Canary Islands ⁽⁴⁾, as amended by Regulation (EEC) No 3902/89 ⁽⁵⁾.

Whereas, as a result of these negotiations, a new Protocol establishing, for the period 1 January 1990 to 31 December 1991, the fishing rights and financial compensation provided for in the abovementioned Agreement was initialled on 14 December 1989;

Article 3

Whereas, pursuant to Article 155 (2) (b) of the Act of Accession, it is for the Council to determine the procedures appropriate to take into consideration all or part of the interests of the Canary Islands when it adopts decisions, case by case, particularly with a view to the conclusion of fisheries agreements with third countries; whereas the case in point calls for the said procedures to be determined;

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

Article 4

Whereas it is in the Community's interest to approve the new Protocol,

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

⁽¹⁾ Opinion delivered on 13 July 1990 (not yet published in the Official Journal).

⁽²⁾ OJ No L 111, 27. 4. 1983, p. 1.

⁽³⁾ OJ No L 29, 30. 1. 1987, p. 9.

⁽⁴⁾ OJ No L 114, 2. 5. 1988, p. 1.

⁽⁵⁾ OJ No L 375, 23. 12. 1989, p. 5.

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

Done at Brussels, 24 July 1990.

For the Council
The President
C. MANNINO

PROTOCOL

establishing, for the period 1 January 1990 to 31 December 1991, 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

THE PARTIES TO THIS PROTOCOL,

Having regard to the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast, signed in Conakry on 7 February 1983 and amended by the Agreement signed in Brussels on 28 July 1987,

HAVE AGREED AS FOLLOWS:

Article 1

For a period of two years from 1 January 1990, the fishing rights granted under Article 2 of the Agreement shall be as follows:

1. trawlers: 12 000 GRT a month, annual average;
2. freezer tuna seiners: 45 vessels;
3. pole-and-line tuna vessels and surface longliners: 35 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 6 700 000, 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 Article 1 (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 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 400 000. 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 1990.

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 Secretary of State for Fisheries of the Republic of Guinea, via the Commission Delegation 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 (Annex 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 Economic 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 Secretary of State 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.

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. 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 appearing on a list drawn up by the Office of the Secretary of State for Fisheries.
3. (a) For the duration of this Protocol the fees for annual licences shall be as follows:
 - ECU 126 per GRT per year for fin fish trawlers,
 - ECU 150 per GRT per year for cephalopod trawlers,
 - ECU 152 per GRT per year for shrimp trawlers.
- (b) For the duration of this Protocol the fees for half-yearly licences shall be as follows:
 - ECU 82 per GRT per half-year for fin fish trawlers,
 - ECU 97 per GRT per half-year for cephalopod trawlers,
 - ECU 99 per 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 Secretary of State 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 IEO — Spanish Institute of Oceanography). The statement shall be forwarded simultaneously to the Office of the Secretary of State for Fisheries and to the shipowners. Any additional payment due shall be made by the shipowners to the Office of the Secretary of State 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 Secretary of State for Fisheries, with a copy to the Commission Delegation in Guinea, in accordance with the procedures set out below:

- for trawlers a statement shall be made out according to the specimen annexed hereto (Annex 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 Annex 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 Secretary of State 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 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 kilograms 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 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, six Guinea seamen shall be signed on permanently.
3. For the fleet of pole-and-line tuna vessels, eight 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, shipowners shall undertake to sign on two seamen/fishermen per vessel.
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 Secretary of State 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 Secretary of State 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 observers

1. The observer's 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. He shall be offered every facility needed to carry out his duties, including access to premises and documents. 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.

The salary and the social contributions of the observer shall be borne by the Government of Guinea.

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.

2. Each trawler shall take on board an observer designated by the Office of the Secretary of State for Fisheries.
3. Tuna vessels and surface longliners shall take an observer on board at the request of the Office of the Secretary of State for Fisheries.

In that case, the port of embarkation shall be determined by mutual agreement between the Office of the Secretary of State for Fisheries and the shipowners or their representatives.

G. Inspection and monitoring

Any Community vessel fishing in Guinea's fishing zone shall allow on board any official of Guinea responsible for inspection and monitoring and shall assist him in the accomplishment of his duties. The 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. 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.

Outrigger fishing shall be authorized during the first year of application of the Protocol. This type of fishing will be examined at the first meeting of the Joint Committee with a view to examining the level of fees applicable to it.

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 Secretary of State 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 Secretary of State 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 the Agreement concluded between the Community and the Republic of Guinea and shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

2. Before any measures regarding the master or the crew of the vessel or any action regarding the cargo and equipment of the vessel are considered, other than those to safeguard evidence relating to the presumed infringement, a consultation meeting shall be held, within 48 hours of receipt of the abovementioned information, between the Delegation of the Commission of the European Communities, the Office of the Secretary of State for Fisheries and the inspection authorities, possibly attended by a representative of the Member State concerned.

At the meeting, the Parties shall exchange any relevant documentation or information helping to clarify the circumstances of the 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.

Annex 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 + 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:
.....
.....
.....
.....
.....

No of employees:

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

Technical remarks

Authorization of the Office of the Secretary of State

ICCAT LOGBOOK for TUNA FISHERY

Vessel name	Gross tonne	month	day	year	port
Flag country	Capacity (M.T.)			19	
Registration No.	Captain				
Company or Owner	No. of crew				
Address	Reporting date				
	Reported by				
	Boat LEFT				
	Boat RETURNED				
	Number of days at sea				
	Number of fishing days or number of sets made				
	Trip number				19

- Longline
- Balloon
- Purse seine
- Trolling
- Others

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Month	Day	Area		Effort (Number of hooks used)	Surt (Water Temp. in °C)	E or W	Longitude	Latitude	Striped marlin Kajiki		Black marlin Makaira		Sailfin mackerel Scomber		Shipjack Katsuwonus		Miscellaneous fishes		Daily total (in weight Kg. only)	Bait used		
		No.	Kg.						No.	Kg.	No.	Kg.	No.	Kg.	No.	Kg.	No.	Kg.			No.	Kg.
01																						
02																						
03																						
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27																						
28																						
29																						
30																						
31																						
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 Mole 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 degree 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.