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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)

EUROPEAN PARLIAMENT AND COUNCIL DIRECTIVE 94/27/EC

of 30 June 1994

amending for the 12th time (\*) Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 100a thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(2)</sup>,

Acting in accordance with the procedure referred to in Article 189b of the Treaty <sup>(3)</sup>,

Whereas Article 8a of the Treaty establishes an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured;

Whereas work on the internal market should gradually improve the quality of life, health protection and consumer safety; whereas the measures proposed by this Directive are in line with the Council resolution of 9 November 1989 on future priorities for relaunching consumer protection policy;

Whereas the presence of nickel in certain objects coming into direct and prolonged contact with the skin may cause sensitization of humans to nickel and may lead to allergic reactions; whereas for these reasons the use of nickel in such objects should be limited;

Whereas one Member State has already introduced a set of control measures on its territory to counteract nickel

sensitization and nickel allergy and a second Member State plans to introduce on its territory a different set of control measures; whereas there is therefore a risk of barriers to trade;

Whereas the test methods to be used in demonstrating conformity with this Directive should be defined and published before the Directive is implemented; whereas these test methods should be the subject of a European standard;

Whereas limitations already adopted or planned by certain Member States on the use of nickel directly affect the completion and functioning of the internal market; whereas it is therefore necessary to approximate the laws of the Member States in this field and consequently to amend Annex I to Directive 76/769/EEC <sup>(4)</sup>,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*

Annex I to Directive 76/769/EEC is hereby supplemented  
*Article 2*

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive not later than six months after publication by the Commission in the *Official Journal of the European Communities*, of the standards adopted by the European Committee for Standardization (CEN) on all the test methods used in demonstrating the conformity of the products with this Directive, or six months after the adoption of this Directive if that date is later than the former, so that:

<sup>(4)</sup> OJ No L 262, 27. 9. 1976, p. 201. Directive as last amended by Directive 91/339/EEC (OJ No L 186, 12. 7. 1991, p. 64).

(\*) The Commission proposal was presented at the 14th amendment of Directive 76/769/EEC (OJ No C 116, 27. 4. 1993, p. 18).

<sup>(1)</sup> OJ No C 116, 27. 4. 1993, p. 18.

<sup>(2)</sup> OJ No C 304, 10. 11. 1993, p. 2.

<sup>(3)</sup> Opinion of the European Parliament of 2 December 1993 (OJ No C 342, 20. 12. 1993, p. 15), Council common position of 4 March 1994 (OJ No C 137, 19. 5. 1994, p. 60) and Decision of the European Parliament of 5 May 1994 (not yet published).

- six months after the expiry of one or other of those periods, whichever is applicable, no manufacturer or importer may place on the market products which fail to comply with this Directive,
- 18 months after the expiry of one or other of those periods, whichever is applicable, products which fail to comply with this Directive cannot be sold or made available to the final consumer, unless they have been placed on the market before the expiry of the period in question.

They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this

Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

#### Article 3

This Directive is addressed to the Member States.

Done at Brussels, 30 June 1994.

*For the  
European Parliament*

E. KLEPSCH

*The President*

*For the Council*

A. BALTAS

*The President*

#### ANNEX

May not be used:

28. Nickel  
CAS No 7440-0-20  
EINECS No 2311114  
and its compounds

1. in post assemblies which are inserted into pierced ears and other pierced parts of the human body during epithelization of the wound caused by piercing, whether subsequently removed or not, unless such post assemblies are homogeneous and the concentration of nickel — expressed as mass of nickel to total mass — is less than 0,05 %;
2. in products intended to come into direct and prolonged contact with the skin such as:
  - earrings,
  - necklaces, bracelets and chains, anklets, finger rings,
  - wrist-watch cases, watch straps and tighteners,
  - rivet buttons, tighteners, rivets, zippers and metal marks, when these are used in garments
 if the rate of nickel release from the parts of these products coming into direct and prolonged contact with the skin is greater than 0,5 µg/cm<sup>2</sup>/week;
3. in products such as those listed in point 2 where these have a non-nickel coating unless such coating is sufficient to ensure that the rate of nickel release from those parts of such products coming into direct and prolonged contact with the skin will not exceed 0,5 µg/cm<sup>2</sup>/week for a period of at least two years of normal use of the product.

Furthermore, products which are the subject of points 1, 2 and 3, may not be placed on the market unless they conform to the requirements set out in those points.

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DECISION

of 17 June 1994

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing, for the period from 1 January 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

(94/456/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast <sup>(1)</sup>,

Having regard to the proposal from the Commission,

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

Whereas, as a result of these negotiations, a new Protocol was initialled on 24 February 1994;

Whereas, under that Protocol, Community fishermen have fishing rights in the waters under the sovereignty or jurisdiction of the Republic of Guinea for the period from 1 January 1994 to 31 December 1995;

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

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

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing, for the period from 1 January 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 is hereby approved on behalf of the Community.

The texts of the Agreement in the form of an exchange of letters and of the Protocol are attached to this Decision.

*Article 2*

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

Done at Luxembourg, 17 June 1994.

*For the Council*

*The President*

Th. MIKROUTSIKOS

<sup>(1)</sup> OJ No L 111, 27. 4. 1983, p. 1.

## AGREEMENT

in the form of an exchange of letters concerning the provisional application of the Protocol establishing, for the period from 1 January 1994 to 31 December 1995, the fishing rights and financial compensation provided for in the Agreement between the European Community and the Government of the Republic of Guinea on fishing off the Guinean coast

*A. Letter from the Government of the Republic of Guinea*

Brussels, .....

Sir,

With reference to the Protocol initialled on 24 February 1994 establishing fishing rights and financial compensation for the period from 1 January 1994 to 31 December 1995, I have the honour to inform you that the Government of the Republic of Guinea is ready to apply this Protocol on a provisional basis, with effect from 1 January 1994, pending its entry into force in accordance with Article 8 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 50% of the financial compensation specified in Article 2 of the Protocol is paid by 30 June 1994.

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

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

*For the  
Government of the Republic of Guinea*

*B. Letter from the Community*

Brussels, .....

Sir,

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

'With reference to the Protocol initialled on 24 February 1994 establishing fishing rights and financial compensation for the period from 1 January 1994 to 31 December 1995, I have the honour to inform you that the Government of the Republic of Guinea is ready to apply this Protocol on a provisional basis, with effect from 1 January 1994, pending its entry into force in accordance with Article 8 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 50% of the financial compensation specified in Article 2 of the Protocol is paid by 30 June 1994.

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

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

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

*On behalf of  
the Council the European Union*

## PROTOCOL

establishing, for the period from 1 January 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.

## I. Provisions applicable to trawlers

1. Each vessel shall be obliged to report to the port of Conakry once a year, prior to the issue of the licence, to undergo the inspection laid down by the rules and regulations currently in force. Inspections shall be carried out exclusively by duly authorized persons and must be effected within 24 working hours of arrival of the vessel in port if arrival has been announced at least 48 hours in advance. If the licence is renewed during the same calendar year the vessel shall be exempt from further inspection.

2. Each vessel must be represented by an agent of Guinean nationality, established in Guinea.

3. (a) 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 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 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 Commission Delegation 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**

1. 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:
  - (i) 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;
  - (ii) for the fleet of tuna seiners, three Guinea seamen shall be signed on permanently;
  - (iii) 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;
  - (iv) for the fleet of surface longliners, the shipowners undertake to employ two fishermen per boat;
  - (v) 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: .....

.....

No of employees: .....

Name and address of co-signatory: .....

.....

VESSEL

Type of vessel: ..... Registration No: .....

New name: ..... Former name: .....

Date and place of construction: .....

Original nationality: .....

Length: ..... Beam: ..... Hold: .....

Gross tonnage: ..... Net tonnage: .....

Type of building materials: .....

Make of main engine: ..... Type: ..... Rating: .....

Propeller: Fixed  Variable  Ducted

Transit speed: .....

Call sign: ..... Call frequency: .....

List of sounding, navigating and transmission instruments:

Radar  Sonar  Netsonde   
VHF  SSB  Netsonde satellite navigation  Other: .....

No of seamen: .....

CONSERVATION

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

Total refrigerating power: .....

Freezing capacity in tonnes/24 hours: .....

Hold capacity: .....

TYPE OF FISHING

A. Demersal

Inshore demersal  Deep-sea demersal

Type of trawl: Cephalopods  Shrimps  Fish

Length of trawl: ..... Headline: .....

Mesh size in the body: .....

Mesh size in the wings: .....

Speed of trawling: .....

B. Deep-sea pelagic (tuna)

Pole and line  No of poles and lines

Seine  Length of net: ..... Depth of net: .....

No of tanks: ..... Capacity in tonnes: .....

C. Longlines and pots

Surface  Bottom

Length of lines: ..... No of hooks: .....

No of lines: .....

No of pots: .....

SHORE INSTALLATIONS

Address and permit No: .....

.....

Name of firm: .....

Activities: .....

Domestic wholesale fish trade  Export

Type and No of wholesale trader's card: .....

Description of processing and conservation plant:

.....

.....

.....

.....

.....

No of employees: .....

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

**Technical remarks**

**Authorization of the Ministry for Fisheries**







## COUNCIL DECISION

of 27 June 1994

concerning the conclusion of an Agreement relating to scientific and technical cooperation  
between the European Community and Australia

(94/457/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 130m, in conjunction with Article 228 (2) first sentence and Article 228 (3) first subparagraph thereof,

Having regard to the proposal of the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas the Community and Australia are pursuing specific research programmes in areas of common interest;

Whereas, on the basis of past experience in the framework of the Arrangement between the Government of Australia and the Commission of the European Communities for cooperation in science and technology signed on 12 November 1986, both sides have expressed a desire to establish a more formal framework for the conduct of collaboration in science and technology;

Whereas by its Decision of 21 May 1992, the Council authorized the Commission to negotiate an agreement for scientific and technical cooperation between the Community and Australia;

Whereas the Community and Australia expect to obtain mutual benefit from cooperation;

Whereas, without prejudice to the relevant provisions of the Treaty, the Agreement and any activities entered into under the Agreement will in no way affect the powers vested in the Member States to undertake bilateral

activity with Australia in the field of science, technology, research and development and to conclude, where appropriate, agreements to that end;

Whereas this Agreement was signed on behalf of the Community in Canberra on 23 February 1994;

Whereas the Agreement relating to scientific and technical cooperation between the European Community and Australia should be approved

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement relating to scientific and technical cooperation between the European Community and Australia 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 shall carry out the notifications provided for in Article 11 of the Agreement.

Done at Brussels, 27 June 1994.

*For the Council*

*The President*

C. SIMITIS

<sup>(1)</sup> OJ No C 181, 3. 7. 1993, p. 9.

<sup>(2)</sup> OJ No C 315, 22. 11. 1993.

<sup>(3)</sup> OJ No C 304, 10. 11. 1993, p. 3.

## AGREEMENT

### relating to scientific and technical cooperation between the European Community and Australia

AUSTRALIA and the EUROPEAN COMMUNITY, hereinafter referred to as the 'Parties',

RECOGNIZING that the European Community, hereinafter called 'the Community', and Australia are pursuing specific research programmes in areas of common interest;

NOTING the Arrangement between the Government of Australia and the Commission of the European Communities for Cooperation in Science and Technology, signed at Canberra on 12 November 1986, which provides for cooperation in fields of science and technology of mutual interest through the exchange of information arising from research in specific fields;

CONSIDERING the importance of scientific and technical research to Australia and the Community, and the mutual benefits that may be derived if the Parties facilitate further cooperation; and

DESIRING to establish a framework for the conduct of collaboration in scientific and technical research which will extend and strengthen collaboration in areas of common interest and encourage the application of results of such collaboration to the social and economic benefit of Australia and the Community,

HAVE AGREED AS FOLLOWS:

#### *Article 1*

##### Definitions

1. 'Cooperative activity' means an activity carried on under this Agreement, and includes joint research.
2. 'Information' means scientific or technical data, results or methods of research and development stemming from the joint research and any other information deemed necessary by the Parties and/or participants engaged in the joint research to be provided or exchanged under this Agreement or research pursuant thereto.
3. 'Intellectual property' shall have the meaning defined in Article 2 of the Convention establishing the World Intellectual Property Organization, done at Stockholm, 14 July 1967.
4. 'Joint research' means research implemented and/or funded by the joint contributions of the Parties and with collaboration from participants of both Parties, where appropriate.
5. 'Participant' means any person, legal entity, research institute or any other body participating in a research project under this Agreement, including the Parties themselves.

#### *Article 2*

##### Objectives

The Parties shall encourage and, within the terms of this Agreement, facilitate cooperation between Australia and the Community in fields of common interest where the Parties are supporting research and development activities to advance science and/or technology relevant to those fields of interest.

#### *Article 3*

##### Principles

Cooperation under this Agreement shall be conducted on the basis on the following principles:

- (a) mutual benefit;
- (b) timely exchange of information which may affect the actions of participants in cooperative activities;
- (c) within the framework of applicable laws and regulations relating to intellectual property, effective protection and equitable distribution of intellectual property, as set out in the Annex to this Agreement, which forms an integral part thereof; and
- (d) pursuit of economic and social benefits of cooperative activities to the Community and Australia in view of the contributions made to cooperative activities by the respective participants and Parties.

*Article 4***Scope**

1. Cooperation may include the following activities:
  - (a) participation of persons and legal entities, research institutes, and other bodies, including the Parties themselves, in research projects conducted by Australia or the Community, in accordance with the procedures in force for each Party;
  - (b) shared use of research facilities in pursuit of cooperation on research projects;
  - (c) visits and exchanges of scientists, engineers and other appropriate personnel for the purposes of participating in seminars, symposia and workshops relevant to cooperation under this Agreement;
  - (d) exchange of information such as practices, laws, regulations and programmes relevant to cooperation under this Agreement; and
  - (e) other activities as may be mutually determined by the Joint Science and Technology Cooperation Committee in accordance with the applicable policies and programmes of the Parties.

2. For the purposes of this Agreement, cooperation shall be restricted to activities in the following areas:

- (a) biotechnology;
- (b) medical and health research;
- (c) marine science and technology;
- (d) environment;
- (e) information technologies; and
- (f) communication technologies.

3. Research projects shall not proceed under this Agreement until the Parties have endorsed a Technology Management Plan, as described in the Appendix to this Agreement, and which is agreed by the participants.

*Article 5***Joint Science and Technology Cooperation Committee**

1. Cooperative activities under this Agreement shall be administered by a Joint Science and Technology Cooperation Committee, hereinafter called 'the Committee', comprising representatives of each Party.

2. The functions of the Committee shall be to:

- (a) promote and review the activities envisaged under this Agreement;
- (b) authorize activities falling under Article 4 (1) (e) of this Agreement as being cooperative activities to which this Agreement applies;
- (c) advise the Parties on ways to enhance cooperation consistent with the objectives and principles set out in this Agreement; and
- (d) provide a report annually to the Parties on the level, status and effectiveness of cooperative activities undertaken under this Agreement.

3. The Committee shall endeavour to meet once a year, with such annual meetings being held alternately in Europe and Australia. Other meetings may be held as mutually determined.

4. Decisions of the Committee shall be reached by consensus. Minutes, comprising a record of the decisions and principal points discussed, shall be taken at each meeting. These Minutes shall be agreed by those persons selected from each side to jointly chair the meeting, and shall, together with the annual report, be available to the next bilateral Ministerial meeting between Australia and the Community.

*Article 6***Dissemination and utilization of information**

The dissemination and utilization of information, and management, allocation and exercise of intellectual property rights, resulting from joint research under this Agreement, shall be subject to the principles set out in the Annex to this Agreement.

*Article 7***Funding**

1. Cooperative activities shall be subject to the availability of funds and to the applicable laws and regulations, policies and programmes of Australia and the Community.

2. Costs incurred by participants in cooperative activities subject to this Agreement shall not require any transfer of funds from one Party to the other.

3. Costs incurred by or on behalf of the Committee shall be met by the Party to whom the members are responsible. Costs, other than those of travel and accommodation, which are directly associated with meetings of the Committee, shall be met by the host Party.

*Article 8***Entry of personnel and equipment**

Each Party shall take all reasonable steps and use its best efforts to facilitate entry to and exit from its territory of personnel, material and equipment of the other Party engaged in or used in cooperative activities under this Agreement.

*Article 9***Other agreements**

This Agreement is without prejudice to cooperation which may be undertaken pursuant to other Agreements or arrangements between the Parties.

*Article 10***Territorial application of this Agreement**

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

*Article 11***Entry into force and termination**

1. This Agreement shall enter into force on the date on which the Parties shall have notified each other in writing that their legal requirements for the entry into force of this Agreement have been fulfilled.

2. This Agreement may be amended or extended by agreement of the Parties. Amendments or extensions shall enter into force on the date on which the Parties shall have notified each other in writing that their legal requirements have been fulfilled.

3. This Agreement may be terminated at any time by either Party upon twelve months' written notice. The expiration or termination of this Agreement shall not affect the validity or duration of any arrangements made under it, or the rights and obligations established pursuant to the Annex to this Agreement.

*Article 12*

This Agreement is drawn up in duplicate in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, each of these texts being equally authentic.

En fe de lo cual, los abajo firmantes suscriben el presente Acuerdo.

Til bekræftelse heraf har undertegnede underskrevet denne aftale.

Zu Urkund dessen haben die Unterzeichneten dieses Abkommen unterschrieben.

Σε πίστωση των ανωτέρω, οι υπογράφωντες έθεσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

In witness whereof the undersigned have signed this Agreement.

En foi de quoi, les soussignés ont apposé leur signature au bas du présent accord.

In fede di che, i sottoscritti hanno firmato il presente accordo.

Ten blijke waarvan de ondergetekenden hun handtekening onder deze overeenkomst hebben gezet.

Em fé do que, os abaixo-assinados apuseram as suas assinaturas no final do presente acordo.

Hecho en Canberra, el veintitrés de febrero de mil novecientos noventa y cuatro.

Udfærdiget i Canberra den treogtyvende februar nitten hundrede og fireoghalvfems.

Geschehen zu Canberra am dreiundzwanzigsten Februar neunzehnhundertvierundneunzig.

Έγινε στην Καμπέρα, στις είκοσι τρεις Φεβρουαρίου χίλια εννιακόσια ενενήντα τέσσερα.

Done at Canberra on the twenty-third day of February in the year one thousand nine hundred and ninety-four.

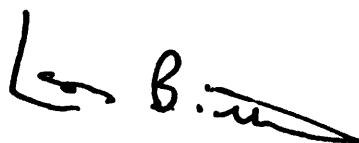
Fait à Canberra, le vingt-trois février mil neuf cent quatre-vingt-quatorze.

Fatto a Canberra, addì ventitré febbraio millenovecentonovantaquattro.

Gedaan te Canberra, de drieëntwintigste februari negentienhonderd vierennegentig.

Feito em Camberra, em vinte e três de Fevereiro de mil novecentos e noventa e quatro.

Por la Comunidad Europea  
For Det Europæiske Fællesskab  
Für die Europäische Gemeinschaft  
Για την Ευρωπαϊκή Κοινότητα  
For the European Community  
Pour la Communauté européenne  
Per la Comunità europea  
Voor de Europese Gemeenschap  
Pela Comunidade Europeia

A handwritten signature in black ink, appearing to be 'L. B. u.' with a long horizontal stroke at the end.

Por Australia  
For Australien  
Für Australien  
Για την Αυστραλία  
For Australia  
Pour l'Australie  
Per l'Australia  
Voor Australië  
Pela Austrália

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

## ANNEX

**DISSEMINATION AND UTILIZATION OF INFORMATION AND MANAGEMENT, ALLOCATION AND EXERCISE OF INTELLECTUAL PROPERTY RIGHTS****I. Ownership, allocation and exercise of rights**

1. All research carried out pursuant to this Agreement shall be 'joint research'. The participants shall jointly develop joint technology management plans (TMPs) <sup>(1)</sup> in respect of the ownership and use, including publication, of information and intellectual property (IP) to be created in the course of joint research. Those plans shall be approved by the Parties before the conclusion of any specific research and development cooperation contracts to which they refer. The TMPs shall be developed taking into account the aims of the joint research, the relative contributions of the participants, the advantages and disadvantages of licensing by territory or for fields of use, requirements imposed by applicable laws, dispute settlement procedures, and other factors deemed appropriate by the participants. The rights and obligations concerning the research generated by visiting researchers in respect of IP shall also be addressed in the TMPs.
2. Information or IP created in the course of joint research and not addressed in the TMP shall be allocated, with the approval of the Parties, according to the principles set out in the TMP, including dispute resolution. In case of disagreement which for sound reasons cannot be resolved by the agreed dispute settlement procedure, the dispute may be referred to the Joint Science and Technology Cooperation Committee which shall endeavour to mediate between the participants. If, having exhausted the procedures described above, the disagreement continues, such information or IP shall be owned jointly by all the participants involved in the joint research from which the information or IP results. Each participant to whom this provision applies shall have the right to use such information or IP for his own commercial exploitation with no geographical limitation.
3. Each Party shall ensure that the other Party and its participants may have the rights to IP allocated in accordance with the principles set out in Section I of this Annex.
4. While maintaining the conditions of competition in areas affected by the Agreement, each Party shall endeavour to ensure that rights acquired pursuant to this Agreement and arrangements made under it are exercised in such a way as to encourage in particular:
  - (i) the dissemination and use of information created, disclosed, or otherwise made available, under the Agreement; and
  - (ii) the adoption and implementation of international standards.

**II. Copyright works**

Copyright belonging to the Parties or to their participants shall be accorded treatment consistent with the Berne Convention (Paris Act 1971).

**III. Scientific literary works**

Subject to Section IV, unless otherwise agreed in the TMP, publication of results of research shall be made jointly by the Parties or participants to that joint research. Subject to this general rule, the following procedures shall apply:

- (1) In the case of publication by a Party or public bodies of that Party of scientific and technical journals, articles, reports, books, including video and software, arising from joint research pursuant to this Agreement, the other Party shall be entitled to a worldwide, non-exclusive, irrevocable, royalty-free licence to translate, reproduce, adapt, transmit and publicly distribute such works.

<sup>(1)</sup> The indicative features of such TMPs are set out in the Appendix.



- (2) The Parties shall ensure that literary works of a scientific character arising from joint research pursuant to this Agreement and published by independent publishers shall be disseminated as widely as possible.
- (3) All copies of a copyright work to be publicly distributed and prepared under this provision shall indicate the names of the author or authors of the work unless an author or authors expressly declines or decline to be named. Copies shall also bear a clearly visible acknowledgement of the cooperative support of the Parties.

#### IV. Undisclosed information

##### A. *Documentary undisclosed information*

1. Each Party or its participants, as appropriate, shall identify at the earliest possible moment and preferably in the TMP the information that it wishes to remain undisclosed in relation to this Agreement, taking into account, among other things, the following criteria:
  - (i) secrecy of the information in the sense that the information is not, as a body or in the precise configuration or assembly of its components, generally known among or readily accessible by lawful means to experts in the field;
  - (ii) the actual or potential commercial value of the information by virtue of its secrecy; and
  - (iii) previous protection of the information in the sense that it has been subject to steps that were reasonable under the circumstances by the person lawfully in control, to maintain its secrecy.

The Parties and the participants may in certain cases agree that, unless otherwise indicated, parts or all of the information provided, exchanged or created in the course of joint research pursuant to this Agreement may not be disclosed.

2. Each Party shall ensure that undisclosed information under this Agreement and its privileged nature is readily recognizable as such by the other Party, for example by means of an appropriate marking or restrictive legend. This also applies to any reproduction of the said information, in whole or in part.
3. A Party receiving undisclosed information pursuant to this Agreement shall respect its privileged nature. These limitations shall automatically terminate when this information is disclosed by the owner without restriction to experts in the field.
4. Undisclosed information communicated under this Agreement may be disseminated by the receiving Party to persons within or employed by the receiving Party, and other concerned departments or agencies in the receiving Party authorized for the specific purposes of the joint research under way, provided that any such undisclosed information shall be disseminated only on conditions of confidentiality and shall be readily recognizable as such, as set out above.
5. With the prior written consent of the Party providing undisclosed information under this Agreement, the receiving Party may disseminate such undisclosed information more widely than otherwise permitted in Paragraph 4 above. The Parties shall cooperate in developing procedures for requesting and obtaining prior written consent for such wider dissemination, and each Party shall grant such approval to the extent permitted by its domestic policies, regulations and laws.

##### B. *Non-documentary undisclosed information*

Non-documentary undisclosed or other confidential or privileged information provided in seminars and other meetings arranged under this Agreement, or information arising from the attachment of staff, use of facilities, or joint projects, shall be treated by the Parties or their participants according to the principles specified for documentary information in the Agreement, provided, however, that the recipient of such undisclosed or other confidential or privileged information has been made aware of the confidential character of the information communicated at the time such communication is made.

##### C. *Control*

Each Party shall endeavour to ensure that undisclosed information received by it under this Agreement shall be controlled as provided therein. If one of the Parties becomes aware that it will be, or may reasonably be expected to become, unable to meet the non-dissemination provisions of Subsections A or B above, it shall immediately inform the other Party. The Parties shall thereafter consult to define an appropriate course of action.

*Appendix***Indicative features of a Technology Management Plan (TMP)**

The TMP is a specific agreement to be concluded between the participants about the implementation of joint research and the respective rights and obligations of the participants. With respect to IP, the TMP will normally address, among other things, ownership, protection, user rights for research and development purposes, exploitation and dissemination, including arrangements for joint publication, the rights and obligations of visiting researchers and dispute settlement procedures. The TMP may also address foreground and background information, licensing and deliverables.

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**Declaration by the Council and the Commission**

The Council and the Commission declare that this Agreement and any activities entered into under it will in no way affect the powers vested in the Member States to undertake bilateral activity with Australia in the field of science, technology, research and development and to conclude, where appropriate, agreements to that end.

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