



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.07.1995

COM(95) 376 final

95/ 0187(CNS)

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

Proposal for a

COUNCIL REGULATION (EC)

on the conclusion of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

(presented by the Commission)

Explanatory Memorandum

The Protocol to the Fisheries Agreement between the Community and Madagascar expired on 20 May 1995. A new Protocol defining, for the period 21 May 1995 to 20 May 1998, the technical and financial conditions governing the fishing activities of Community vessels in Malagasy waters, was initialled on 18 May 1995.

On the basis of the above, the Commission proposes that the Council adopt:

- by means of a Decision, the draft Agreement in the form of an exchange of letters on the provisional application of the new Protocol pending its definitive entry into force;
- by means of a Regulation, the Protocol fixing, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the technical and financial conditions pertaining thereto agreed between the Community and Madagascar.

Proposal for a
COUNCIL DECISION

of

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar¹,

Having regard to the proposal from the Commission,

Whereas the Community and the Republic of Madagascar held negotiations to determine the amendments or additions to be made to the Agreement on fishing off Madagascar at the end of the period of application of the first Protocols;

Whereas, as a result of these negotiations, a new Protocol was initialled on 18 May 1995;

Whereas, under this Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Republic of Madagascar for the period 21 May 1995 to 20 May 1998;

Whereas, in order to avoid the interruption of fishing activities by Community vessels, it is essential that the Protocol in question be approved as quickly as possible; whereas both parties have therefore 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 Protocols previously in force; whereas the Agreement in the form of an exchange of letters should be concluded, subject to a definitive decision under Article 43 of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

¹ OJ No L 73, 18.3.1986, p. 26.

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar is hereby approved on behalf of the Community.

The text of the Agreement in the form of an exchange of letters is attached to this Decision.

Article 2

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

Done at Brussels,

For the Council

The President

AGREEMENT

in the form of an exchange of letters concerning the provisional application of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

A. Letter from the Government of Madagascar

Sir,

With reference to the Protocol, initialled on 18 May 1995, defining the fishing opportunities and the financial contribution for the period 21 May 1995 to 20 May 1998, I have the honour to inform you that the Government of Madagascar is willing to apply the Protocol provisionally from 21 May 1995 pending its entry into force in accordance with Article 7 thereof provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment, equal to one third of the financial contribution laid down by Article 2 of the Protocol, will be paid before 30 November 1995.

I should be grateful if you would confirm the agreement of the European Community to such a provisional application.

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

For the Government of the Republic of Madagascar

B. Letter from the Community

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 18 May 1995, defining the fishing opportunities and the financial contribution for the period 21 May 1995 to 20 May 1998, I have the honour to inform you that the Government of Madagascar is willing to apply the Protocol provisionally from 21 May 1995 pending its entry into force in accordance with Article 7 thereof provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment, equal to one third of the financial contribution laid down by Article 2 of the Protocol, will be paid before 30 November 1995.

I should be grateful if you would confirm the agreement of the European Community to such a provisional application."

I have the honour to confirm the agreement of the European Community to such a provisional application.

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

On behalf of the Council of the European Union

Proposal for a

95/0187(CNS)

COUNCIL REGULATION (EC) No

of

on the conclusion of the Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 in conjunction with the first sentence of Article 228(2) and the first subparagraph of Article 228(3) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas, in accordance with the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar³, the two parties held negotiations with a view to determining the amendments or additions to be made to the Agreement at the end of the period of application of the first Protocols;

Whereas, as a result of these negotiations, a new Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the said Agreement was initialled on 18 May 1995;

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

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the

¹ OJ No C 201, 8.8.1992, p. 19.

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

³ OJ No L 73, 18.3.1986, p. 26.

European Community and the Government of the Republic of Madagascar on fishing off Madagascar is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Protocol in order to bind the Community⁴.

Article 3

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

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

Done at Brussels,

For the Council

The President

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

PROTOCOL

defining, for the period 21 May 1995 to 20 May 1998, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar

Article 1

Pursuant to Article 2 of the Agreement, licences authorizing simultaneous fishing in Madagascar's fishing zone shall be granted to 42 freezer tuna seiners and 16 surface longliners for a period of three years beginning on 21 May 1995.

In addition, at the request of the Community, authorization may be granted for other categories of fishing vessel under conditions to be laid down in the Joint Committee referred to in Article 9 of the Agreement.

Article 2

The amount of the contribution referred to in Article 7 of the Agreement shall be ECU 1 350 000 for the duration of the Protocol, payable in three equal annual instalments. This amount is to cover an annual catch of 9 000 tonnes of tuna in Malagasy waters; if the tuna caught by Community vessels in Madagascar's fishing zone exceeds this weight, the amount referred to above shall be proportionately increased.

Article 3

1. The Community shall also, during the period referred to in Article 1, contribute ECU 375 000 to finance a Malagasy scientific programme to improve knowledge of the highly migratory species existing in the Indian Ocean around Madagascar.

At the request of the Government of Madagascar, this contribution may take the form of assistance with the costs of international meetings to improve knowledge of those species and the management of fishery resources.

2. The competent Malagasy authorities shall send the Commission a summary report on the use of those funds.
3. The Community contribution to the scientific programme shall be paid into the account indicated by the Malagasy authorities.

Article 4

1. The two parties hereby agree that increasing the skills and knowledge of those concerned with sea fishing is essential to the success of their cooperation. The Community shall therefore facilitate the entry of Malagasy nationals to establishments in its Member States, and for this purpose shall make available to

them study or practical training awards lasting a maximum of five years in the various scientific, technical and economic fields and in related activities linked to the development of the fisheries and aquaculture sectors, as judged necessary by the Government of Madagascar. The total cost of these grants may not exceed ECU 450 000. The grants may also be used in any other country linked to the Community by a Cooperation Agreement.

2. The amount referred to in paragraph 1 shall be payable as used.

Article 5

In the event that the Community does not make the payments referred to in Articles 2 and 3, the Fisheries Agreement may be suspended.

Article 6

The Annex to the Agreement between the European Community and the Government of the Republic of Madagascar on fishing off Madagascar is hereby repealed and replaced by the Annex hereto.

Article 7

This Protocol shall enter into force on the date of its signature.

It shall apply from 21 May 1995.

ANNEX

Conditions governing fishing activities by Community vessels in Madagascar's fishing zone

1. Formalities concerning applications for, and the issue of, licences

The procedure for applications for, and the issue of, licences authorizing Community vessels to fish in Malagasy waters shall be as follows:

- (a) through its representative in Madagascar, the European Commission shall present to the Malagasy authorities, at least 20 days before the beginning of the desired period of validity, a licence application completed by the shipowner in respect of each vessel for which authority to fish under the Agreement is requested. The application must be made on the form provided by Madagascar for this purpose, in accordance with the specimen given in Appendix 1, and shall be accompanied by proof of payment of the advance due from the shipowner;
- (b) the licence shall be issued for a specific vessel and shall not be transferable.

However, in the event of *force majeure*, a licence for one vessel may be replaced by a licence for another vessel of similar characteristics should the European Commission so request. The owner of the vessel being replaced shall return the cancelled licence to the Malagasy Ministry with responsibility for fisheries via the Delegation of the European Commission in Madagascar.

The new licence shall indicate:

- the date of issue,
- the fact that it cancels and replaces the licence of the previous vessel.

The fee provided for in Article 5 of the Agreement shall not be due for the remaining period of validity;

- (c) the Malagasy authorities shall send the licence to the representative of the European Commission in Madagascar;
- (d) the licence must be kept on board at all times; however, on reception of notification of payment of the advance sent to the Malagasy authorities by the European Commission, the vessel shall be entered on a list of vessels authorized to fish, which shall be sent to the Malagasy authorities responsible for fisheries inspection. A copy of the said licence may be

obtained by fax pending arrival of the licence itself; that copy shall be kept on board;

- (e) owners of tuna boats must be represented in Madagascar by an agent;
- (f) before the entry into force of the Agreement, the Malagasy authorities shall supply full details of the bank accounts to be used for the payment of fees.

2. Validity of, and payment for, licences

- (a) Licences shall be valid for one year. They shall be renewable.
- (b) The fee shall be ECU 20 per tonne caught in waters under Madagascar's jurisdiction. Licences shall be issued on advance payment to the Malagasy Treasury of an annual sum of ECU 1 500 per tuna seiner and ECU 500 per surface longliner.
- (c) At the end of each calendar year, the European Commission shall draw up a final statement of the fees due in respect of the fishing year on the basis of catch declarations completed by each shipowner and confirmed by a scientific institute competent for verifying catch statistics such as ORSTOM (Office of Overseas Scientific and Technical Research), IEO (Spanish Oceanographical Institute) or USTA (Antsiranana Tuna Statistical Unit). The statement shall simultaneously be notified to the Malagasy fisheries authorities and the shipowners. Shipowners shall make any additional payments to the Malagasy fisheries authorities within 30 days of notification of the final statement.

Where the final statement is less than the abovementioned advance, the balance shall not be recoverable by the shipowner.

4. Declaration of catches

- (a) Vessels authorized to fish in Madagascar's fishing zone pursuant to the Agreement shall notify their catch statistics to the fisheries authorities, with a copy for the Delegation of the European Commission in Madagascar, in accordance with the following procedure:
 - tuna seiners and surface longliners shall complete a fishing form corresponding to the specimen given in Appendix 2 for each period spent fishing in Madagascar's fishing zone. The form shall be sent to the competent authorities within 45 days of the end of fishing activities in Madagascar's fishing zone.

The form must be filled in legibly and signed by the captain of the ship.

- (b) In the event of failure to comply with these provisions, the Malagasy authorities reserve the right to suspend the licence of the offending vessel until the formalities have been completed. In such cases, the Delegation of the European Commission in Madagascar shall be informed without delay.

4. Radio communications

The captain shall give notification, at least 24 hours in advance, either via the coastal radio station at Antsiranana or by telex or fax, of his intention of bringing his vessel into Madagascar's fishing zone.

The radio frequency and the telex and fax numbers to be used will be indicated on the licence.

5. Observers

At the request of the Malagasy authorities, tuna boats shall take an observer on board who shall be treated as an officer. The time spent on board by the observer shall be fixed by the Malagasy authorities, but, as a general rule, it should not exceed the time required to carry out his duties.

The conditions governing his embarkation shall be agreed between the shipowner or his agent and the Malagasy authorities.

The shipowner shall, via his agent, make a payment of ECU 10 to the Malagasy Government for each day spent by an observer on board a tuna boat.

Should a tuna boat with a Malagasy observer on board leave Madagascar's fishing zone, every step shall be taken to ensure that the observer returns to Madagascar as soon as possible, at the shipowner's expense.

6. Employment of seamen

At least two Malagasy seamen shall be employed by the tuna seiner fleet for the duration of the fishing season.

In the event that the seamen are not so employed, the shipowners shall pay the full amount of the wages of the seamen or seaman not employed; this sum is to be used for the training of Malagasy fishermen and shall be paid into an account whose number shall be notified to the agents.

The employment contracts for the seamen shall be concluded by the agents and the seamen concerned.

APPENDIX 1

APPLICATION FORM FOR A FISHING LICENCE

1. New application or renewal:.....
2. Name and flag of vessel:.....
3. Period of validity: from.....to.....
4. Name of shipowner:.....
5. Address of shipowner:.....
.....
6. Name and address of charterer (if different from 4 and 5):.....
.....
7. Name and address of official representative in Madagascar:.....
.....
8. Name of captain:.....
9. Type of vessel:.....
10. Registration number:.....
11. External identification of vessel:.....
12. Port and country of registration:.....
13. Overall length and breadth of vessel:.....
14. Gross and net tonnage of vessel:.....
15. Make and power of main engine:.....
16. Freezer capacity (t/d):.....
17. Hold capacity (m³):.....
18. Radio call sign:.....
19. Other communications equipment (telex, fax):.....
20. Fishing appliances:.....

21. Number of crew broken down by nationality:.....

22. Number of fishing licence (in the case of a renewal, attach licence):.....
.....

I, the undersigned,....., certify that the above information is correct and undertake to comply therewith.

Stamp and signature of shipowner:

Date:

ICCAT LOGBOOK for TUNA FISHERY

- Longline
- Barknet
- Purse seine
- Trawl
- Other

Page of pages

Vessel name		
Flag country		
Registration No		
Company or Owner		
Address		
Boat LEFT	month	day
Boat RETURNED	month	day
Number of days fishing		
Number of days made		

Date	Area		Surf Water Temp (m°C)	E or W	Longitude	Latitude	EFTS (hours fishing)		Black tuna (kg)		Bigeye tuna (kg)		Skipjack tuna (kg)		Swordfish (kg)		Black marlin (kg)		Sailfin mackerel (kg)		Miscellaneous fishes (kg)		Depth total in weight (kg only)	Boat used			
	Month	Day					No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg		No	kg	No	kg
01																											
02																											
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Length weight (in kg)

- Remarks
- Use one sheet per month and one line per day.
 - At the end of each log, forward a copy of the log, together with a copy of the log, to the ICCAT Secretariat, 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 to the nearest longitude. Be sure to record N/S and E/W.
 - The bottom line (landing weight) should be completed only at the end of the log. Actual weight at the time of unloading should be recorded.
 - Any information reported therein will be kept strictly confidential.

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FINANCIAL STATEMENT

1. **TITLE OF OPERATION:** New financial Protocol - EC/Madagascar
2. **BUDGET HEADING INVOLVED:** B7-800
3. **LEGAL BASIS:** EC/Madagascar Agreement - Council Regulation (EEC) No 780/86 (OJ No L 73, 18.3.1986)
4. **DESCRIPTION OF OPERATION:**
 - 4.1 **General objective:** Protocol and Annex for a period of three years
 - 4.2 **Period covered and arrangements for renewal or extension:**
Period: 21 May 1995 to 20 May 1998
Arrangements for renewal: negotiations before expiry of Protocol
5. **CLASSIFICATION OF EXPENDITURE OR REVENUE:**
 - 5.1 **Compulsory/non-compulsory expenditure**
 - 5.2 **Differentiated/non-differentiated appropriations**
 - 5.3 **Type of revenue involved**
6. **TYPE OF EXPENDITURE:**
 - **100% subsidy**
 - **Subsidy for joint financing with other sources in the public and/or private sector**
 - **Interest subsidy**
 - **Other: financial contribution to a third country in exchange for fishing opportunities set out in the Protocol**
 - **Should the operation prove an economic success, is there provision for all or part of the Community contribution to be reimbursed?**
 - **Will the proposed operation cause any change in the level of revenue? If so, what sort of change and what type of revenue is involved?**

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (definition of unit costs)

7.2 Itemised breakdown of cost

Breakdown	Budget year n 1995	n + 1 1996 1997	n + 5 and subs. yrs	TOTAL
protocol					
ART 2	450.000	450.000	450.000		1.350.000
ART 3	375.000				375.000
ART 4	450.000				450.000
TOTAL	1.275.000	450.000	450.000		2.175.000

State whether the amounts are expressed in current ecus or constant ecus (give base year).

For the preliminary draft budget, fill in only the columns "budget n" and "n + 1".

7.3 Indicative schedule of appropriations

7.3.1 Schedule for proposed new operation

	n 1995	n + 1 1996 1997	n + 5 and subs. yrs	TOTAL
Commitment appropriations	1.275.000	450.000	450.000		2.175.000
Payment appropriations					
n 1995	725.000				
n + 1 1996		725.000			
..... 1997			725.000		
n + 5 and subs. yrs					
TOTAL					2.175.000

State whether the amounts are expressed in current ecus or constant ecus (give base year).

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DOCUMENTS

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