



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.04.1996

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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 18 January 1996 to 17 January 1999 the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Seychelles on fishing off the coast of Seychelles

Proposal for a

COUNCIL REGULATION (EC)

on the conclusion of the Protocol defining,
for the period from 18 January 1996 to 17 January 1999,
the fishing opportunities and the financial contribution provided for by
the Agreement between the European Community and the Republic of Seychelles
on fishing off Seychelles

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol annexed to the fisheries agreement between the European Community and the Seychelles expired on 17 January 1996. A new Protocol was initialled by the two parties on 18 January 1996 establishing the technical and financial conditions under which Community fishing vessels can fish in Seychelles waters in the period 18 January 1996 to 17 January 1999.

The Commission is accordingly proposing that the Council should adopt:

- by means of a Decision, the draft Agreement in the form of an exchange of letters concerning the provisional application of the new Protocol pending its final entry into force,
- by means of a Regulation, the Protocol establishing the fishing opportunities and the associated technical and financial conditions agreed between the Community and the Seychelles for the period 18 January 1996 to 17 January 1999.

**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 18 January 1996 to 17 January 1999 the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Seychelles on fishing off the coast of Seychelles

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles ⁽¹⁾, signed in Brussels on 28 October 1987,

Having regard to the proposal from the Commission,

Whereas the Community and the Republic of Seychelles have held negotiations with a view to determining amendments to be made to the abovementioned Agreement at the end of the period of application of the Protocol in force which is annexed to the said Agreement;

Whereas, as a result of these negotiations, a new Protocol was initialled on 18 January 1996, by virtue of which Community fishermen are to enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Republic of Seychelles for the period 18 January 1996 to 17 January 1999;

Whereas, in order to avoid interruption of fishing activities by Community vessels, both parties have initialled an Agreement in the form of an Exchange of Letters providing for the provisional application of the said Protocol from the day following the date of expiry of the Protocol previously in force; whereas the Agreement in the form of an Exchange of Letters should be approved subject to a definitive decision pursuant to 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 defining, for the period 18 January 1996 to 17 January 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Seychelles on fishing off Seychelles 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

⁽¹⁾ OJ No L 119, 7.5.1987, p. 26.

AGREEMENT
in the form of an exchange of letters
concerning the provisional application of the protocol defining,
for the period 18 January 1996 to 17 January 1999,
the fishing opportunities and the financial contribution
provided for by the agreement between the European Community and
the Republic of Seychelles on fishing off Seychelles

A. Letter from the Republic of Seychelles

Sir,

With reference to the draft Protocol, initialled on 18 January 1996, establishing the fishing opportunities and the financial contribution for the period 18 January 1996 to 17 January 1999, I have the honour to inform you that the Republic of Seychelles is ready to apply this Protocol on a provisional basis, with effect from 18 January 1996, pending its entry into force in accordance with Article 6 of the Protocol, provided that the European Community is prepared to do the same.

This is on the understanding that a first instalment equal to one-third of the financial compensation specified in Article 2 of the Protocol is to be paid by 31 May 1996.

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
Republic of Seychelles

B. Letter from the Community

Sir,

I am in receipt of your letter of today's date, which reads as follows:

"With reference to the draft Protocol, initialled on 18 January 1996, establishing the fishing opportunities and the financial contribution for the period 18 January 1996 to 17 January 1999, I have the honour to inform you that the Republic of Seychelles is ready to apply this Protocol on a provisional basis, with effect from 18 January 1996, pending its entry into force in accordance with Article 6 of the Protocol, provided that the European Community is prepared to do the same.

This is on the understanding that a first instalment equal to one-third of the financial compensation specified in Article 2 of the Protocol is to be paid by 31 May 1996.

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 such provisional application of the Protocol.

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

On behalf of the Council of the European Union

**Proposal for a
COUNCIL REGULATION (EEC) No
of
on the conclusion of the Protocol defining,
for the period from 18 January 1996 to 17 January 1999,
the fishing opportunities and the financial contribution provided for by
the Agreement between the European Community and the Republic of Seychelles
on fishing off Seychelles**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

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

Whereas, in accordance with the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles, signed in Brussels on 28 October 1987, the Contracting Parties held negotiations with a view to determining amendments to be made to that Agreement at the end of the period of application of the Protocol attached to the said Agreement;

Whereas, as a result of these negotiations, a new Protocol defining for the period from 18 January 1996 to 17 January 1999 the fishing opportunities and the financial contribution provided for by the abovementioned Agreement was initialled on 18 January 1996;

Whereas it is in the Community's interest to approve that Protocol.

"Whereas the allocation of fishing possibilities among the Member States should be determined on the basis of the traditional allocation of fishing possibilities under the fisheries agreement"

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining, for the period from 18 January 1996 to 17 January 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Republic of Seychelles on fishing off Seychelles is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation.

Article 2

The fishing possibilities provided for in the Protocol are allocated among the Member States as follows:

- freezer tuna seiners: France: 20 vessels;
- Spain: 22 vessels;

⁽¹⁾ Opinion delivered on

(not yet published in the Official Journal).

- surface longliners: France: 5 vessels.
Spain: 10 vessels

If licence applications from these Member States do not exhaust the fishing possibilities provided for in the Protocol the Commission may entertain licence applications from any other Member State.

Article 3

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

This Regulation shall enter into force on the third day following that of 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

PROTOCOL
defining for the period 18 January 1996 to 17 January 1999
the fishing opportunities and the financial contribution
provided for by the Agreement between the European Community
and the Republic of Seychelles
on fishing off Seychelles.

ARTICLE 1

Pursuant to Article 2 of the Agreement, and notwithstanding Article 12 of the Agreement relating to further periods of the Agreement, licences to fish simultaneously in Seychelles waters shall be granted to 42 ocean-going tuna seiners and 15 surface longliners not exceeding 37 m length overall for a period of three years beginning on 18 January 1996.

ARTICLE 2

The financial compensation referred to in Article 6 of the Agreement shall be fixed at ECU 6 900 000 for the period provided for in Article 1 of this Protocol, payable in three equal annual instalments. The financial compensation corresponds to a catch of 46 000 tonnes of tuna per year in Seychelles' waters. If the catch by Community vessels in Seychelles' waters exceeds 46 000 tonnes, the Community shall increase the financial compensation proportionately.

ARTICLE 3

The Community shall also pay, during the period referred to in Article 1, a contribution of ECU 2 700 000 payable in three equal annual instalments, towards the financing of scientific programmes in the Seychelles to gain greater knowledge of fish stocks concerning the region of the Indian Ocean surrounding the Seychelles islands, particularly in respect of highly migratory species, and the purchase or maintenance or both, as Seychelles may think fit, of equipment to improve the administrative structure relating to fisheries in Seychelles.

The Seychelles authorities shall forward a brief report on the way that amount is used to the Commission services.

ARTICLE 4

The two parties hereby agree that an essential condition for the success of their co-operation is that the skills and know-how of persons engaged in sea fishing be improved. To this end, the Community will assist Seychellois nationals in finding places in establishments in its Member States or States with which it has concluded co-operation agreements and will make available an amount of ECU 300 000 for study or practical training awards with a maximum duration of five years in the various scientific, technical and economic subjects relating to fisheries. Of this amount, up to ECU 100 000 may be used, at the request of the Seychelles' authorities, to cover the cost of attending international meetings relating to fisheries.

ARTICLE 5

The Protocol and Annex I, dated 18 and 17 January 1990 respectively, to the Agreement which came into force on 28 October 1987 between the European Community and the Republic of Seychelles on fishing off Seychelles are hereby repealed and replaced by this Protocol and Annex I.

ARTICLE 6

This Protocol and Annex I shall enter into force on the date of their signature.

This Protocol and Annex I shall be applicable from 18 January 1996.

**CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY COMMUNITY VESSELS
IN SEYCHELLES' WATERS**

1. Licence application and issuing formalities

The procedure for applications for, and issue of, licences enabling Community vessels to fish in Seychelles' waters shall be as follows:

- (a) the Commission of the European Communities shall present to the Seychelles Fishing Authority, via the representative of the Commission of the European Communities in the Seychelles, an application, made by the shipowner, for each vessel that wishes to fish under this Agreement, at least 20 days before the date of commencement of the period of validity requested. The application shall be made on the form provided for that purpose by the Seychelles, a specimen of which is annexed as appendix 1;
- (b) every licence shall be issued for one designated vessel. At the request of the Commission of the European Communities, the licence for a vessel may, and, in cases of force majeure, will be replaced by a licence for another Community vessel;
- (c) the licences shall be delivered by the authorities of the Seychelles to the shipowners, or their representatives or agents. The representative of the Commission of the European Communities shall be notified of the licences granted by the authorities of Seychelles;
- (d) the licence document must be held on board at all times; however, on reception of notification of payment of the advance sent to the Seychellese authorities by the European Commission, the vessel shall be entered on a list of vessels authorized to fish, which shall be sent to the Seychellese 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) the authorities of the Seychelles shall communicate before the date of entry into force of the Agreement the arrangements for payment of the licence fees, and in particular the details of the bank accounts and the currencies to be used.

2. Validity of licences and payment

- (a) Licences shall be valid for a period of one year. They are renewable.
- (b) The fee shall be set at ECU 20 per tonne caught within Seychelles' waters. Licences shall be issued following advance payment to Seychelles of a lump sum, per year and for each vessel, of ECU 7.500 for tuna seiners and ECU 500 for surface longliners, equivalent to the fees for respectively 375 tonnes and 25 tonnes caught within the Seychelles' waters per year.
- (c) Surface longliners shall, before the starting of their fishing campaign in Seychelles' waters and at the end of it, call into Port Victoria to check the catches held on board. However, at the request of the shipowner, the Seychelles authorities might exempt the vessel of that requirement.
Fishing licences for surface longliners shall authorise the fishing of not only tuna but also

swordfish, marlin and sailfish.

- (d) The Seychelles Fishing Authority (SFA) will draw up a statement of fees due in respect of the previous calendar year on the basis of catch declarations by Community vessels and other information in the possession of the SFA.

The statement will be sent to the Commission before March 31 of the current year, which transmitted it before April 15 simultaneously to shipowners and national authorities of the concerned Member States.

Where the shipowners do not agree with the statement submitted by the SFA, they may consult the scientific institutes competent for verifying catch statistics such as Institut Français de Recherche Scientifique pour le Développement en Coopération (ORSTOM) or the Spanish Oceanographical Institute (IEO), and thereafter discuss together with the Seychelles authorities to establish the final statement before May 15 of the current year. In the absence of observations by the shipowners at that date, the statement submitted by the SFA is considered as the final one. The Member States will notify the Commission of the final statement relating to their own fleet.

Shipowners shall make any additional payment above the advance to the Seychelles fisheries authorities before May 31st of the same year.

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

3. Declaration of catches

- a) The Community vessels licensed to fish in Seychelles' waters shall complete a fishing form as set out in Appendix 2 and 3, for each fishing trip it undertakes in Seychelles' waters. In the absence of catches, the fishing forms shall still be filled.
- b) For the periods for which a Community vessel referred to in point a) was not present in Seychelles' waters, it shall provide the abovementioned fishing form with the notation "Outside Seychelles' EEZ"
- c) As far as the release of the fishing forms referred to in points a) and b) is concerned, the Community vessels shall:
- in the case they call into Port Victoria, submit the completed forms to the Seychelles authorities within 5 days of arrival, or in any event before it leaves port, whichever occurs first;
 - in any other case, send the completed forms to the Seychelles authorities within 14 days of arrival in any port other than Victoria.

Copies of these fishing forms must also be sent to the scientific institutes referred to in point 2 (d).

- d) In the event of failure to comply with these provisions, the sanctions referred to in point 10 will be applicable.

4. Observers

Tuna seiner vessels shall, at the request of the Seychelles' authorities, take on board a qualified observer designated by the said authorities in order to check position of the vessel and catches made in Seychelles' waters. Observers shall have all facilities necessary for the performance of these duties, including access to places, documents and communication equipments. An observer must not be present for longer than the time required to fulfil his duties. Observers shall be granted officer status while on board. Should a tuna seiner with a Seychellois observer on board leave Seychelles' waters, every step will be taken to ensure that the observer returns to Seychelles as soon as possible, at the shipowners' expense.

5. Employment of seamen

Each tuna seiner shall take on board at least two Seychelles seamen designated by the Seychelles' authorities, in agreement with the shipowners, during its fishing campaign. The employment contracts of the seamen shall be drawn up in Victoria between the shipowners' representatives and the seamen in agreement with the Seychelles Ministry responsible for Employment. This contract shall cover the social security arrangements applicable to the seamen including life, accident and sickness insurance.

6. Landing

Tuna seiners landing in the port of Victoria will endeavour to make their by-catches available to the Seychellois authorities at the local market prices. Furthermore the Community tuna seiners shall participate in supplying tuna to the Seychelles canneries at international market prices.

7. Communications

Within 3 hours of each entry and exit of the zone and every 3 days during their fishing activities in Seychelles' waters, Community vessels shall communicate directly to the Seychelles' authorities, in priority by fax or, in the event of failure, by radio their position and the volume of catches held on board.

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

A copy of the communications by fax or a record of the radio communications above referred shall be kept by the Seychelles' authorities and the shipowners until the approval by both parts of the final statement of the fees referred to in point 2 (d).

In the event of failure to comply with these provisions, the sanctions referred to in point 10 will be applicable.

8. Fishing zone

To avoid any adverse effect on small-scale fisheries in Seychelles' waters, fishing by Community vessels shall not be authorized in the zones defined in the Seychelles regulations nor within three miles around any fish-aggregating device placed by the Seychelles authorities, the geographical positions of which have been communicated to the shipowners' representative or agent.

9. Port equipment and use of supplies and services

Community vessels shall endeavour to procure in Seychelles all supplies and services required for their operations. The Seychelles' authorities will lay down, in agreement with the shipowners, the conditions for using port equipment and, if necessary, supplies and services.

10. Sanctions

Failure to observe anyone of the above rules or management and conservation of living resources measures, or the Seychelles legislation, may be penalized by suspension, revocation or non-renewal of the vessel's fishing licence. Suspension or revocation of a fishing licence shall be regarded as force majeure for the purpose of point 1(b) of this Annex.

The Commission of the European Communities will immediately be fully informed of any suspension or revocation and of all the relevant facts related thereto.

APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE

Name of applicant:

Address of applicant:

Name and address of charterer of vessel if different from above:

Name and address of other legal representative in Seychelles:

Name and address of master of vessel:

Name of vessel:

Type of vessel:

Length and registered net tonnage of vessel:

Engine type, horse power and gross registered tonnage:

Port and country of registry:

Registration number:

Fishing vessel external identification:

Radio call sign/signal letters:

Frequency

Particulars of equipment:

Number and nationality of crew:

Proposed fishing area and species of fish:

Description of fishing operations, joint ventures and other contractual arrangements:

I certify that the above particulars are correct.

Date: Signature:



APPENDIX 3: STATEMENT OF CATCH FOR SURFACE LONGLINERS

Name of vessel: _____ Skipper's name: _____

Date of setting: ___/___/___ Start of trip: ___/___/___/___ at: _____

Trip number: _____ Setting number: _____

Wind direction: _____	Force: _____ (Beaufort)
Sea conditions: _____	Swell: _____
Surface temperature: ___ ° C	Current: speed: _____ Direction: _____
Moon: New moon + ___ days	Moon rises: _____
	Moon sets: _____ 0 to 24 hours

Setting details

Start time: _____ Finishing time: _____

Section	Position	Heading	Speed	Remarks
Depart: radio buoy number 1				
Radio buoy number 2				
Radio buoy number 3				
Radio buoy number 4				
Radio buoy number 5				
Radio buoy number 6				
Radio buoy number 7				

* VDK

** with head, gilled

State the type of weight used (VAT, VDK, WHOLE) if different from that specified.

Number of hooks: _____

Length: Buoy lines: _____ Branch lines: _____

Length of line: _____

Recorded depth of the line (sounder): _____

Bait: Shrimp: _____ % Mackerel: _____ % _____: _____ %

Details of catch

	Time (0 à 24 H)		Latitude			Longitude		
Start of turn								
End of turn								

Species	Number	Estimated unit weight	Total weight	Number of fish eaten
Swordfish*				
Yellowfin**				
Bigeye**				
Marlin**				
Sailfish*				
Seabream				
Shark				
Other (give details)				
Total weight				

Total weight of catch landed (weighed)

FINANCIAL STATEMENT

1. **TITLE OF OPERATION:** New financial Protocol EC/Seychelles
2. **BUDGET HEADING INVOLVED:** B7-800
3. **LEGAL BASIS:** Treaty art.43, in conjunction with art.228(2) and (3) first subpar. EC/Seychelles Agreement (OJ No L 119, 7.5.87)

4. **DESCRIPTION OF OPERATION**

4.1 General objective: Protocol and Annex for a 3-year period

4.2 Period covered and arrangements for renewal or extension:

18 January 1996 to 17 January 1999

Arrangements for renewal by negotiations before the Protocol expires.

5. **Classification of expenditure or revenue**

5.1 Compulsory

5.2 Differentiated

6. **Type of expenditure or revenue**

- *Other:* Financial compensation to a third country in exchange for fishing opportunities granted by it and laid down in the Protocol.

7. **FINANCIAL IMPACT**

7.1 Method of calculating total cost of operation (definition of unit costs)
see complement to the Protocol

7.2 Itemised breakdown of cost

current ECUs

Breakdown	1996	1997	1998	TOTAL
protocol art.2	2.300.000	2.300.000	2.300.000	6.900.000
protocol art.3	900.000	900.000	900.000	2.700.000
protocol art.4	300.000			300.000
TOTAL	3.500.000	3.200.000	3.200.000	9.900.000

7.3 Schedule for proposed new operation

current ECUs					
	1996	1997	1998		TOTAL
Commitment appropriations	3.500.000	3.200.000	3.200.000		9.900.000
Payment appropriations					
1996	3.500.000				3.500.000
1997		3.200.000			3.200.000
1998			3.200.000		3.200.000
TOTAL	3.500.000	3.200.000	3.200.000		9.900.000

8. FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN:

Since the financial contributions are made by the Community in direct exchange for the fishing possibilities offered, the third country uses them for whatever end it chooses. The exception to this rule is the case of programmes, such as the scientific programmes, where under the dispositions of the Agreement, Mauritania will furnish reports to the Community.

In addition, the Member States whose vessels operate under this Agreement must certify to the Commission the exactitude of the data indicated in the tonnage certificates of the vessels so that the licence fees may be calculated on a guaranteed basis. To that end, the Agreement includes catch declarations for Community vessels.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS:

In terms of the benefits of this agreement, it is clear that the value of the catches of the main commercial species far exceeds the cost of 9.9 MECU.

In addition to the direct commercial value of the catches of the vessels concerned, there are the following evident benefits from this Agreement:

- guaranteed employment aboard the fishing vessels;
- multiplier employment effect in the ports, auctions rooms, processing factories, shipyards, service industries, etc.;
- these employment opportunities are in regions where no other opportunities are available;
- contribution to the supply of fish to the Community.

Obviously, in addition to those benefits, one must take account of the importance of our relations with Seychelles in the fisheries field and our overall political relations.

10. ADMINISTRATIVE EXPENDITURE (part A of the budget):

No incidence on administrative expenditure.

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