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EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

on the signing and on the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Union of the Comoros

EXPLANATORY MEMORANDUM

Based on a mandate from the Council¹, the European Commission has negotiated with the Union of the Comoros to renew the Protocol to the Fisheries Partnership Agreement between the European Community and the Union of the Comoros, dated 6 October 2006. On conclusion of these negotiations, a new Protocol was initialled on 21 May 2010 and amended by an exchange of letters on 16 September 2010. It covers a period of three years from the time of the adoption of the Council decision on the signing and on the provisional application of the said Protocol and after expiry of the current Protocol on 31 December 2010.

This procedure is initiated in parallel with the procedures relating to the Council Decision with the consent of the Parliament on the conclusion of the Protocol itself, as well as to the Council Regulation concerning the allocation of the fishing opportunities between the Member States of the EU.

The Commission's negotiating position was based in part on the results of an ex-post evaluation carried out by external experts.

The main objective of the Protocol is to define the fishing opportunities offered to vessels of the European Union based on the surplus available as well as the financial contribution due, separately, for access rights and for sectoral support.

The objective is to continue the cooperation between the European Union and the Union of the Comoros, thereby creating a partnership framework within which to develop a sustainable fisheries policy and sound exploitation of fisheries resources in the Comorian fishing zone, in the interests of both Parties.

The new Protocol is in keeping with the two Parties' concern to strengthen partnership and cooperation in the fisheries sector using all the financial instruments available. To this end, it is recalled that there is a need to create a framework which is favourable to the development of investment in this sector and optimising the production of small-scale fisheries.

The overall annual contribution of the Protocol of EUR 1 845 750 over the whole period is based on: a) an annual reference tonnage fixed at 4 850 tonnes for 70 vessels corresponding to EUR 315 250 per year, and b) support for the development of the sectoral fisheries policy of the Union of the Comoros amounting to EUR 300 000 per year. This support meets the objectives of the national fisheries policy.

With regard to the fishing opportunities, 45 tuna seiners and 25 surface longliners will be authorised to fish. Nevertheless, with regard to the annual assessments of the state of stocks, these fishing opportunities could be revised up or down which would lead to a corresponding review of the financial contribution.

The Commission proposes, on this basis, that the Council adopt by Decision the signing and the provisional application of the Protocol.

¹ Decision No 9180/10 of 10 May 2010.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 in conjunction with Article 218(5) thereof,

Having regard to the proposal from the Commission²,

Whereas:

- (1) By Council Regulation No 1563/2006, the European Community concluded a Fisheries Partnership Agreement with the Union of the Comoros³,
- (2) The European Union then negotiated with the Union of the Comoros a new Protocol to the Fisheries Partnership Agreement, providing European Union vessels with fishing opportunities in the waters over which the Comoros has sovereignty or jurisdiction in respect of fisheries,
- (3) As a result of these negotiations, a Protocol was initialled on 21 May 2010,
- (4) The Protocol which is currently in force will continue to be applied until its expiry on 31 December 2010,
- (5) In accordance with the provisions of Article 13, the new Protocol must apply provisionally from the date of its signature,
- (6) In order to ensure the continuation of the fishing activities of European vessels, it is essential that the new Protocol be applied from the day following the date of expiry of the Protocol which is currently in force, namely 1 January 2011,
- (7) It is in the interests of the European Union to sign the new Protocol and to apply it on a provisional basis subject to the conclusion of the procedures relating to its formal conclusion.

² OJ C , , p. .

³ Council Regulation No 1563/2006 of 6 October 2006 (OJ L 290, 20.10.2006).

HAS ADOPTED THIS DECISION:

Article 1

The signature of the Protocol to the Fisheries Partnership Agreement between the European Community and the Union of the Comoros, initialled on 21 May 2010, is authorised on behalf of the Union, subject to its conclusion.

The text of the Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the persons empowered to sign the agreement on the provisional application in order to bind the European Union, subject to its conclusion.

Article 3

The provisional application of the Protocol to the Fisheries Partnership Agreement between the European Community and the Union of the Comoros is authorised on behalf of the Union.

Article 4

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*

PROTOCOL

setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Union of the Comoros

Article 1

Period of application and fishing opportunities

1. For a period of three years, the fishing opportunities granted to vessels of the European Union under Article 5 of the Fisheries Partnership Agreement shall be as follows:
 - tuna seiners: 45 vessels
 - surface longliners: 25 vessels.
2. Paragraph 1 shall apply subject to Articles 5, 6, 8 and 9 of this Protocol.

Article 2

Financial contribution – Methods of payment

1. For the period referred to in Article 1, the financial contribution referred to in Article 7 of the Fisheries Partnership Agreement shall be EUR 1 845 750.
2. The financial contribution comprises:
 - (a) an annual amount for access to the EEZ of the Comoros of EUR 315 250, equivalent to a reference tonnage of 4 850 tonnes per year, and
 - (b) a specific amount of EUR 300 000 per year for the support and implementation of the sectoral fisheries policy of the Comoros.
3. Paragraph 1 shall apply subject to Articles 3, 4, 5 and 6 of this Protocol and Articles 12 and 13 of the Agreement.
4. The European Union shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 615 250 per year during the period of application of this Protocol, corresponding to the total of the annual amounts referred to in paragraph 2(a) and (b).
5. If the overall quantity of catches by European Union vessels in Comorian waters exceeds 4 850 tonnes per year, the total amount of the annual financial contribution shall be increased by EUR 65 for each additional tonne caught. However, the total annual amount paid by the European Union shall not be more than twice the amount indicated in paragraph 2(a) (EUR 630 500). Where the quantities caught by European Union vessels exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.
6. Payment shall be made no later than 30 days after the entry into force of the Protocol for the first year and no later than the anniversary date of this Protocol for the following years.

7. The Comorian authorities shall have full discretion regarding the use to which the financial contribution referred to in paragraph 2(a) is put.
8. All of the financial contribution indicated in Article 2(2) of this Protocol shall be paid into a Public Treasury account opened with the Comoros central bank, Banque Centrale des Comores.
9. From this account, the amount corresponding to the financial contribution referred to in Article 2(b) will be transferred to the account TR 5006 opened with the Central Bank by the Ministry responsible for fisheries.

Article 3

Promotion of responsible and sustainable fishing in Comorian waters

1. No later than three months after the entry into force of this Protocol, the Parties shall agree, within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement, on a multiannual sectoral programme and detailed implementing rules, in particular:
 - (a) annual and multiannual guidelines for using the financial contribution referred to in Article 2(2)(b);
 - (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible and sustainable fishing, taking account of the priorities expressed by the Comoros in its national fisheries policy and other policies relating to or having an impact on the introduction of responsible and sustainable fishing;
 - (c) criteria and procedures for evaluating the results obtained each year.
2. Any proposed amendments to the multiannual sectoral programme must be approved by both Parties within the Joint Committee.
3. Each year, the Comoros shall decide on the allocation, if necessary, of an additional amount to the part of the financial contribution referred to in Article 2(2)(b) with a view to implementing the multiannual programme. This allocation shall be communicated to the European Union.
4. Where the annual evaluation of the progress made in implementing the multiannual sectoral programme so warrants, the European Commission reserves the right, after consulting the two Parties within the Joint Committee, to reduce the part of the financial contribution referred to in Article 2(2)(b) of the Protocol with a view to adjusting the amount allocated to implementation of the Programme in line with the results.

Article 4

Scientific cooperation on responsible fishing

1. The Parties hereby undertake to promote responsible fishing in Comorian waters based on the principle of non-discrimination between the different fleets operating in those waters.

2. During the period covered by this Protocol, the European Union and the Union of the Comoros shall endeavour to monitor the state of fishery resources in the Comorian fishing zone.
3. The two Parties shall respect the recommendations and resolutions of the Indian Ocean Tuna Commission (IOTC) and undertake to promote cooperation at subregional level on the responsible management of fisheries.
4. In accordance with Article 4 of the Agreement, based on the recommendations and resolutions adopted within the IOTC and the best available scientific advice, the Parties shall consult each other within the Joint Committee provided for in Article 9 of the Agreement and, where necessary after a scientific meeting and by mutual agreement, take measures to ensure the sustainable management of fisheries resources concerning the activities of European Union vessels.

Article 5

Adjustment of fishing opportunities by mutual agreement

The fishing opportunities referred to in Article 1 may be adjusted by mutual agreement insofar as the recommendations and resolutions adopted by the IOTC confirm that this adjustment guarantees the sustainable management of the Comorian fisheries resources. In this case the financial contribution referred to in Article 2(2)(a) shall be adjusted proportionately and *pro rata temporis*. However, the total annual amount of the financial contribution paid by the European Union shall not be more than twice the amount referred to in Article 2(2)(a).

Article 6

New fishing opportunities

1. Should European Union vessels be interested in fishing activities which are not indicated in Article 1, the Parties shall consult each other before any authorisation is granted by the Comorian authorities. Where appropriate, the Parties shall agree on the conditions applicable to these new fishing opportunities and, if necessary, make amendments to this Protocol and to the Annex thereto.
2. The Parties shall encourage experimental fishing. To this end and on request of one of the two Parties, the latter shall consult and determine, on a case-by-case basis, the species, conditions and any other relevant parameters.
3. The Parties shall carry out experimental fishing in accordance with the Comorian legislation in force and according to the agreed administrative and scientific provisions, if applicable. The authorisations for experimental fishing shall be granted for periods of a maximum of six months.
4. Where the Parties consider that the experimental fishing trips have produced positive results, the Comorian authorities, in a meeting of the Joint Committee provided for in Article 9 of the Agreement, may allocate fishing opportunities for new species to the fleet of the European Union until the expiry of this Protocol. The financial contribution referred to in Article 2(2)(a) of this Protocol shall consequently be increased.

Article 7

Conditions governing fishing activities – Exclusivity clause

1. Without prejudice to Article 6 of the Agreement, the fishing vessels flying the flag of a Member State of the European Union may fish in Comorian waters only if they are in possession of a fishing authorisation issued under this Protocol in accordance with the Annex hereto.
2. For the categories of fishing which are not covered by this Protocol and for experimental fishing, the Comorian authorities may grant fishing authorisations to vessels of the European Union. However, the granting of these authorisations is governed by the legislation and rules of the Union of the Comoros with the agreement of the two Parties.

Article 8

Suspension and review of the payment of the financial contribution

1. The financial contribution as referred to in Article 2(2)(a) and (b) may be revised or suspended after consultation within the Joint Committee if:
 - (a) Unusual circumstances, other than natural phenomena, prevent fishing activities in the Comorian EEZ;
 - (b) Following significant changes in the policy guidelines which led to the conclusion of this Protocol, one of the two Parties requests a review of the provisions with a view to a possible amendment thereof;
 - (c) The European Union notes that there has been a violation in the Comoros of the essential and fundamental elements of human rights as provided for in Article 9 of the Cotonou Agreement.
2. The European Union reserves the right to suspend, partially or totally, the payment of the specific financial contribution provided for in Article 2(2)(b) of this Protocol:
 - (a) If the results obtained are inconsistent with the programming, following an evaluation carried out by the Joint Committee;
 - (b) In the event of non-payment of this financial contribution.
3. Payment of the financial contribution shall resume after consultation and agreement of the two Parties as soon as the situation prior to the events mentioned in paragraph 1 has been re-established, and/or if the results of the financial implementation referred to in paragraph 2 so warrant.

Article 9

Suspension of the implementation of the Protocol

1. The implementation of this Protocol may be suspended at the initiative of one of the two Parties after consultation within the Joint Committee if:
 - (a) Unusual circumstances, other than natural phenomena, prevent fishing activities in the Comorian EEZ;
 - (b) In the event of significant changes in the policy guidelines which led to the conclusion of this Protocol, either Party may request a review of the provisions with a view to a possible amendment thereof.

- (c) The European Union notes that there has been a violation in the Comoros of the essential and fundamental elements of human rights as provided for in Article 9 of the Cotonou Agreement;
- (d) There is a non-payment of the financial contribution provided for in Article 2(2)(a) by the European Union, for reasons other than those provided for in Article 8 of this Protocol;
- (e) There is a dispute between the two Parties concerning the interpretation of this Protocol;
- (f) One of the two Parties does not comply with the provisions of this Protocol.
2. The implementation of the Protocol may be suspended at the initiative of one Party if the dispute between the Parties is deemed to be serious and if the consultations held within the Joint Committee have not resulted in an amicable settlement.
3. Suspension of application of the Protocol shall require the interested Party to notify its intention in writing at least three months before the date on which suspension is due to take effect.
4. In the event of suspension, the Parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where such settlement is reached, application of the Protocol shall resume and the amount of the financial contribution shall be reduced proportionately and pro rata temporis according to the period during which application of the Protocol was suspended.

Article 10
National law

1. The activities of European Union vessels operating in Comorian waters shall be governed by the applicable law in the Comoros, unless otherwise provided for in the Fisheries Partnership Agreement, this Protocol and the Annex and appendices hereto.
2. The Comorian authorities shall inform the European Commission of any change or any new legislation relating to the fishing sector.

Article 11
Duration

This Protocol and the annex hereto shall apply for a period of three years from the provisional application in accordance with Article 13, unless notice of termination is given in accordance with Article 12.

Article 12
Termination

1. In the event of termination of the Protocol, the Party concerned shall notify the other Party in writing of its intention to terminate it at least six months before the date on which such termination would take effect.
2. Dispatch of the notification as referred to in the previous paragraph shall open consultations between the Parties.

Article 13
Provisional application

This Protocol with its Annex shall be provisionally applied from the date of signature.

Article 14
Entry into force

This Protocol with its Annex shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

ANNEX

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY EUROPEAN UNION VESSELS IN COMORIAN WATERS

CHAPTER 1 - APPLICATION AND ISSUE FORMALITIES FOR FISHING AUTHORISATIONS

Section 1

Issue of fishing authorisations

1. Only eligible European Union vessels may obtain an authorisation to fish in Comorian waters.
2. For a vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in the Comoros. They must be in order vis-à-vis the Comorian authorities insofar as they must have fulfilled all prior obligations arising from their fishing activities in the Comoros under fisheries agreements concluded with the European Union. Furthermore, they must comply with the provisions of Regulation No 1006/2008 on fishing authorisations.
3. Any European Union vessel applying for a fishing authorisation must be represented by an agent resident in the Comoros. The name and address of that agent shall be stated in the fishing authorisation application.
4. The relevant European Union authorities shall present to the competent Comorian authorities an application for each vessel wishing to fish under the Agreement at least 20 days before the date of commencement of the period of validity requested.
5. Applications shall be submitted to the competent Comorian authorities on a form drawn up in accordance with the specimen in Appendix 1.
6. All fishing authorisation applications shall be accompanied by the following documents:
 - proof of payment of the fee for the period of validity of the authorisation;
 - any other documents or certificates required under the specific rules applicable to the type of vessel concerned pursuant to this Protocol.
7. The fee shall be paid into the account specified by the Comorian authorities.
8. The fees shall include all national and local charges with the exception of port taxes and service charges.
9. Fishing authorisations for all vessels shall be issued to shipowners or their agents via the Delegation of the European Union in Mauritius within 15 days of receipt of all the documents referred to in point 6 by the competent Comorian authorities.
10. If a fishing authorisation is signed at a time when the European Union Delegation offices are closed, it shall be sent directly to the vessel's agent and a copy shall be sent to the Delegation.

11. Fishing authorisations shall be issued for a given vessel and shall not be transferable.
12. However, at the request of the European Union and where force majeure is proven, a vessel's fishing authorisation shall be replaced by a new fishing authorisation for another vessel with similar characteristics to those of the first vessel, with no further fee due.
13. The owner of the first vessel, or the agent, shall return the cancelled fishing authorisation to the competent Comorian authorities via the Delegation of the European Union.
14. The new fishing authorisation shall take effect on the day that the vessel's owner returns the cancelled fishing authorisation to the competent Comorian authorities. The Delegation of the European Union in Mauritius shall be informed of the transfer of the fishing authorisation.
15. The fishing authorisation must be kept on board at all times, without prejudice to point 1 of Chapter VI of this Annex.

Section 2

Fishing authorisation conditions – fees and advance payments

1. Fishing authorisations shall be valid for a period of one year. They shall be renewable.
2. The fee shall be set at EUR 35 per tonne caught within Comorian waters.
3. Fishing authorisations shall be issued once the following standard amounts have been paid to the competent national authorities:
 - EUR 3 700 per year per tuna seiner, equivalent to the fees due for 106 tonnes of tuna caught per year;
 - EUR 2 200 per year per surface longliner, equivalent to the fees due for 63 tonnes of tuna caught per year.
4. The final statement of the fees due for the fishing year shall be drawn up by the European Commission by 31 July of the following year at the latest on the basis of the catch declarations made by each shipowner and confirmed by the scientific institutes responsible for verifying catch data in the Member States, such as the IRD (Institut de Recherche pour le Développement), the IEO (Instituto Español de Oceanografía) and the IPIMAR (Instituto de Investigação das Pescas e do Mar).
5. The statement shall simultaneously be notified to the competent Comorian authorities and the shipowners.
6. Any additional payments shall be made by the shipowners to the competent Comorian authorities by 30 August of the following year at the latest, into the account referred to in point 7 of Section 1 of this Chapter.

7. However, if the amount of the final statement is lower than the advance referred to in point 3 of this Section, the resulting balance shall not be reimbursable to the shipowner.

Section 3 Support vessels

1. Support vessels must be authorised in compliance with the provisions and conditions provided for in Comorian legislation.
2. There must be no fee for authorisations issued to support vessels. The latter must fly the flag of a Member State of the European Union or be part of a European company.
3. The competent Comorian authorities shall send the list of these authorisations to the Commission on a regular basis, via the Delegation of the EU in Mauritius.

CHAPTER II – FISHING ZONES

To avoid adverse effects on small-scale fisheries in Comorian waters, European Union vessels shall not be allowed to fish within 10 nautical miles of any of the islands nor within a radius of three nautical miles of fish aggregating devices placed by the Comorian Ministry responsible for fisheries, the positions of which have been communicated to the representative of the European Union in Mauritius.

These provisions may be reviewed by the Joint Committee referred to in Article 9 of the Agreement.

CHAPTER III – MONITORING AND SURVEILLANCE

Section I System for recording catches

1. All vessels authorised to fish in Comorian waters under the Agreement shall be obliged to communicate their catches to the Comorian Ministry responsible for fisheries in the following manner:
 - 1.1. European vessels authorised to fish in Comorian waters must fill out an IOTC logbook on a daily basis for tuna fishing (Appendices 2 and 3) for each trip in Comorian waters. The logbook must still be filled in if there are no catches.
 - 1.2. Copies of the IOTC logbook for tuna fishing must also be sent to the scientific institutes indicated in Chapter I, Section 2, point 4.
2. The words 'Outside Comorian EEZ' shall be entered in the abovementioned logbook in respect of periods during which the vessel is not in Comorian waters.
3. The forms shall be filled in legibly and signed by the master of the vessel.
4. Where the provisions set out in this Chapter are not complied with, the Comorian Government reserves the right to suspend the fishing authorisation of the offending

vessel until formalities have been completed and to apply the penalty laid down in current Comorian legislation to the shipowner. The European Commission shall be informed thereof.

5. Declarations shall include the catches made by the vessel during each trip. They shall be transmitted to the Comorian Ministry responsible for fisheries by electronic means, with a copy to the European Commission, at the end of each trip and, in all cases, before the vessel leaves Comorian waters. Electronic receipts shall be sent at once to the vessel by both addressees, with a copy to the other.
6. The original of the declarations sent electronically during the annual period of validity of the licence within the meaning of point 1 of Section 2 of Chapter I of this Annex shall be transmitted on a physical medium to the Comorian Ministry responsible for fisheries within 45 days following the end of the last trip made during the said period. Hard copies shall be sent to the European Commission at the same time.
7. The two Parties must make every effort to establish a system for reporting catches based exclusively on the electronic exchange of all the data: the two Parties shall thus plan the rapid replacement of the paper version of the catch reporting with an electronic version.
8. Once the electronic catch reporting system has been set up and in the event of a technical fault in this system, the catch reports shall be done in accordance with paragraphs 5 and 6 above until the system is working again.

Section 2

Reporting of catches: entering and leaving Comorian waters

1. For the purposes of this Annex, the duration of a trip by a European Union vessel shall be defined as follows:
 - either the period elapsing between entering and leaving Comorian waters;
 - or the period elapsing between entering Comorian waters and a transshipment;
 - or the period elapsing between entering Comorian waters and a landing in the Comoros.
2. European vessels shall notify the Comorian authorities responsible for fisheries inspection at least three hours in advance of their intention to enter or leave Comorian waters.
3. When notifying entering/leaving, vessels shall also communicate their position and the volume and species in catches kept on board. This information should preferably be communicated using electronic means in accordance with the model in Appendix 4, or failing that, by fax with acknowledgments of receipt to the vessel. In the event of a technical fault, this information will be communicated by radio.
4. Vessels found to be fishing without having informed the competent Comorian authorities shall be regarded as vessels without a fishing authorisation.

5. Vessels shall also be informed of the email address, fax and telephone numbers and radio coordinates when the fishing authorisation is issued.

Section 3 Transshipment and landings

1. All European vessels wishing to tranship or land catches in Comorian waters shall do so within Comorian ports.
 - 1.1 The owners of such vessels must notify the following information to the competent Comorian authorities at least 24 hours in advance:
 - the names of the transshipping or landing fishing vessels,
 - the names of the cargo vessels;
 - the tonnage by species to be transhipped or landed;
 - the day of transshipment or landing;
 - the beneficiary of the catches landed.
2. Transshipment and landing shall be considered as an exit from Comorian waters. Vessels must therefore submit their catch declarations to the competent Comorian authorities and state whether they intend to continue fishing or leave Comorian waters.
3. Any transshipment or landing of catches not covered above shall be prohibited in Comorian waters. Any person infringing this provision shall be liable to the penalties provided for by Comorian law.

Section 4 Satellite monitoring

European vessels must be monitored, inter alia, by the satellite-based monitoring system, without discrimination, in accordance with the following provisions.

1. For the purposes of satellite monitoring, the geographic positions of the limits of the Comorian fishing zone have been communicated to the representatives or agents of the shipowners as well as to the Control Centres of the flag States.
2. The Parties shall exchange information on https addresses and the specifications for electronic data transmission between their Control Centres in accordance with points 4 to 6. Such information shall include the following where they exist: names, telephone, telex and fax numbers, and e-mail addresses which may be used for general communications between Control Centres.
3. The position of vessels shall be determined with a margin of error of less than 500 metres and a confidence interval of 99%.
4. When a vessel which is fishing under the Agreement between the European Union and the Comoros and which is the subject of satellite-based monitoring pursuant to European Union legislation enters the Comorian fishing zone, the subsequent

position reports shall immediately be transmitted by the Control Centre of the flag State to the Comorian Fisheries Monitoring Centre (CNCSP) at intervals of no more than two hours. The messages concerned shall be identified as position reports.

- 4.1. The transmissions may be changed to intervals of no more than 30 minutes maximum if there is serious evidence that the vessel is in breach of the rules;
- 4.2. This evidence must be submitted by the CNCSP to the Control Centre of the flag State as well as to the European Commission. The request to change the intervals for the transmissions must be attached. The Control Centre of the flag State should then send the data to the CNCSP of the Comoros, in real time, immediately after having received the request;
- 4.3. The CNCSP of the Comoros shall then immediately notify the Control Centre of the flag State and the European Commission of the end of the inspection procedure;
- 4.4. The Control Centre of the flag State and the European Commission must be informed about the follow-up to any inspection procedure which is based on this special request.
5. The messages specified in point 4 shall be transmitted electronically in https format, without any further protocol. They shall be communicated in real time in the format set out in the table in Appendix 4.
 - 5.1. It is prohibited for vessels to turn off the satellite-monitoring equipment when they are operating in Comorian waters.
6. Where the continuous satellite monitoring equipment installed on board a fishing vessel develops a technical fault or breaks down, the master of the vessel shall transmit the information specified in point 4 to the Control Centre of the flag State in good time. In such circumstances, it will be necessary to send a position report every four hours while the vessel is in Comorian waters.
 - 6.1. This Global Position Report shall include the hourly positions as recorded by the master of that vessel during those four hours.
 - 6.2. The Control Centre of the flag State or the vessel itself must forward these messages to the CNCSP of the Comoros without delay.
 - 6.3. In case of need or doubt, the competent Comorian authorities may request additional information from the Control Centre of the flag State about a particular vessel.
7. The defective equipment shall be repaired or replaced as soon as the vessel completes its fishing trip and, in any case, within one month at the latest. After this deadline, the vessel in question may not undertake any further fishing trips until the equipment has been repaired or replaced.
8. The satellite-monitoring system software and hardware components shall be tamper-proof i.e. they must not permit the input or output of false positions or be capable of being manipulated. The system shall be fully automatic and operational at all times regardless of environmental conditions. Destroying, damaging, rendering inoperative or tampering with the satellite-monitoring system shall be prohibited.

- 8.1 The master of the vessel must ensure in particular that:
- data are not altered in any way;
 - the antenna or antennas connected to the satellite-monitoring equipment are not obstructed in any way;
 - the power supply of the satellite-monitoring equipment is not interrupted in any way;
 - the vessel tracking device is not removed from the vessel or from the place where it was originally installed;
 - any replacement of the vessel tracking device shall be immediately notified to the competent Comorian authorities.
- 8.2 Any violation of the abovementioned obligations may make the master liable under the laws and regulations of the Comoros, provided that the vessel is operating in Comorian waters.
9. The Control Centres of the flag States shall monitor the movements of their vessels in Comorian waters. If the vessels are not being monitored in accordance with the conditions laid down, the CNCSP shall be informed immediately and the procedure laid down in point 6 shall be applicable.
10. The Control Centres of the flag States and the CNCSP of the Comoros must cooperate to ensure the implementation of these provisions. If the CNCSP establishes that a flag State is not transmitting the data in accordance with point 4, the other Party must be informed immediately. Upon receipt of notification, the latter must respond within 24 hours by informing the CNCSP of the reasons for non-transmission and stating a reasonable deadline for complying with these provisions. In the event that these provisions are not complied with within the time limit, the two Parties will resolve the dispute in writing or as provided for in point 14 below.
11. The monitoring data communicated to the other Party in accordance with these provisions is intended solely for the purposes of the Comorian authorities in controlling and monitoring the European Union fleet fishing under the Agreement between the EU/Comoros. Such data may not under any circumstances be communicated to third parties.
12. The Parties agree to exchange upon request information on the equipment used for satellite monitoring, in order to ensure that each piece of equipment is fully compatible with the requirements of the other Party for the purposes of these provisions.
13. The Parties shall agree to review these provisions when appropriate, in particular in the event of a malfunction or anomaly relating to the vessels. These cases should be notified by the competent Comorian authority to the flag state at least 15 days before the review meeting.
14. Any dispute over the interpretation or application of these provisions shall be the subject of consultation between the Parties within the Joint Committee provided for in Article 9 of the Agreement between the European Union and the Comoros.

CHAPTER IV – EMBARKING SEAMEN

1. Each European Union vessel shall take on board, at its own expense, at least one qualified Comorian seaman during a season in Comorian waters.
2. Shipowners shall endeavour to take on board additional ACP seamen.
3. Shipowners shall be free to select the seamen they take on board their vessels from the names on a list submitted by the competent Comorian authorities.
4. The shipowner or agent shall inform the competent Comorian authorities of the names of the local seamen taken on board the vessel concerned, mentioning their position in the crew.
5. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on by EU vessels. This concerns in particular the freedom of association and the effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.
6. Seamen's employment contracts, a copy of which shall be given to the signatories, shall be drawn up between the shipowners' agent(s) and the seamen and/or their trade unions or representatives in consultation with the competent Comorian authorities. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance.
7. The wages of the ACP seamen shall be paid by the shipowners. They shall be fixed by mutual agreement between the shipowners or their representatives and the seamen and/or their trade unions or representatives. However, the wage conditions granted to ACP seamen shall not be lower than those applied to crews from their respective countries and shall under no circumstances be below ILO standards.
8. All seamen employed aboard European Union vessels shall report to the master of the vessel designated on the day before their proposed embarkation date. Where a seaman fails to report at the date and time agreed for embarkation, shipowners shall be automatically absolved of their obligation to take that seaman on board.
9. Where no local seamen are taken on board for reasons other than that referred to in the previous point, shipowners shall be obliged to pay, for each day of the fishing trip in Comorian waters, a flat-rate amount of EUR 20 per day and per vessel. The payment of this amount shall take place within the limits laid down in point 6 of Section 2 of Chapter I of this Annex.
10. This sum shall be used for training local seamen and shall be paid into the account specified by the Comorian authorities.

CHAPTER V – OBSERVERS

1. Vessels authorised to fish in Comorian waters under the Agreement shall take on board observers appointed by the Comorian authorities on the terms set out below.

- 1.1 At the request of the Comorian Ministry responsible for fisheries, tuna vessels shall take on board an observer designated by the former to check catches made in Comorian waters.
- 1.2 The competent Comorian authorities shall draw up a list of vessels designated to take an observer on board and a list of the appointed observers. These lists shall be kept up to date. They shall be forwarded to the European Commission as soon as they have been drawn up and every three months thereafter where they have been updated.
- 1.3 The competent Comorian authorities shall inform the shipowners concerned, or their agents, of the name of the observer appointed to be taken on board their vessel at the time the licence is issued, or no later than 15 days before the observer's planned embarkation date.
2. The time spent on board by observers shall be one fishing trip. However, at the express request of the competent Comorian authorities, this embarkation may be spread over several trips according to the average duration of trip for a particular vessel. This request shall be made by the competent Comorian authorities when the name of the observer appointed to board the vessel in question is notified.
3. The conditions under which observers are taken on board shall be agreed between shipowners or their agents and the Comorian authorities.
4. Observers shall be taken on board at a port chosen by the shipowner at the beginning of the first voyage in Comorian waters after notification of the list of designated vessels.
5. Within two weeks and giving ten days' notice, the shipowners concerned shall make known at which Comorian ports and on what dates they intend to take observers on board.
6. Where observers are taken on board in a foreign country, their travel costs shall be borne by the shipowner. Should a vessel with a Comorian observer on board leave Comorian waters, all measures must be taken to ensure the observer's return to the Comoros as soon as possible at the expense of the shipowner.
7. If the observer is not present at the time and place agreed or within the twelve hours following the time agreed, shipowners shall be automatically absolved of their obligation to take the observer on board.
8. Observers shall be treated as officers. They shall carry out the following tasks:
 - 8.1 observe the fishing activities of the vessels;
 - 8.2 verify the position of vessels engaged in fishing operations;
 - 8.3 note the fishing gear used;
 - 8.4 verify the catch data for Comorian waters recorded in the logbook;

- 8.5 verify the percentages of by-catches and estimate the quantity of discards of species of marketable fin-fish, crustaceans and cephalopods;
- 8.6 report fishing data by radio, including the quantity of catches and by-catches on board.
9. Masters shall do everything in their power to ensure the physical safety and welfare of observers during performance of their duties.
- 10 Observers shall be offered every facility needed to carry out their duties. The master shall give them access to the means of communication needed for the discharge of their duties, to documents directly concerned with the vessel's fishing activities, including in particular the logbook and the navigation log, and to those parts of the vessel necessary to facilitate the exercise of their tasks.
11. While on board, observers shall:
 - 11.1 take all appropriate steps to ensure that the conditions of their boarding and presence on the vessel neither interrupt nor hamper fishing operations;
 - 11.2 respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.
12. At the end of the observation period and before leaving the vessel, observers shall draw up an activity report to be transmitted to the competent Comorian authorities, with a copy to the European Commission. They shall sign it in the presence of the master, who may add or cause to be added to it any observations considered relevant, followed by the master's signature. A copy of the report shall be given to the master when the observer is put ashore.
13. Shipowners shall bear the cost of accommodating observers in the same conditions as the officers on the vessel, within the confines of the structure of the vessel.
14. The salary and social contributions of the observer shall be borne by the competent Comorian authorities.

CHAPTER VI – MONITORING

European fishing vessels shall comply with the measures and recommendations adopted by the Indian Ocean Tuna Commission (IOTC) regarding fishing gear and the technical specifications thereof and all other technical measures applicable to their fishing activities.

1. List of vessels
 - 1.1 The European Union shall keep an up-to-date list of the vessels to which a fishing authorisation has been issued under this Protocol. This list shall be notified to the Comorian authorities responsible for fisheries inspection as soon as it is drawn up and each time it is updated.
 - 1.2 European Union vessels may be included on the list referred to in the previous point upon receipt of notification of the advance payment referred to in point 3 of Section 2 of Chapter I of this Annex. In this case, a certified copy of this list may be obtained

by the shipowner and kept on board instead of the fishing authorisation until the authorisation has been issued.

2. Monitoring procedures

2.1 Masters of European Union fishing vessels engaged in fishing activities in Comorian waters shall allow and facilitate boarding and the discharge of their duties by any Comorian official responsible for the inspection and monitoring of fishing activities.

2.2. These officials shall not remain on board for longer than is necessary for the discharge of their duties.

2.3. Once the inspection and monitoring has been completed, a copy of the inspection report shall be provided to the master of the vessel.

2.4. In order to facilitate safe inspection procedures and without prejudicing Comorian legislation, the boarding must be carried out in such a way that the inspection platforms and the inspectors are identified as officers authorised by the Comoros.

2.5 Masters of European fishing vessels engaged in landing or transshipment operations in a Comorian port shall allow and facilitate the inspection of such operations by Comorian inspectors.

CHAPTER VII - BOARDING

1. Boarding

1.1 The competent Comorian authorities shall inform the European Commission and the flag State, within no more than 24 working hours, of all boardings of and penalties imposed on European vessels in Comorian waters.

1.2 The European Commission shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

2. Statement of boarding

2.1 After the competent Comorian authorities have drawn up a statement, the master of the vessel shall sign it.

2.2 This signature shall not prejudice the rights of the master or any defence which he or she may make to the alleged infringement.

2.3 The master shall take the vessel to the port indicated by the Comorian authorities. In the case of minor infringements, the competent Comorian authorities may authorise the boarded vessel to continue its fishing activities.

3. Consultation meeting in the event of boarding

3.1 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 one working day of the receipt of the above information,

between the European Commission and the competent Comorian authorities, possibly attended by a representative of the Member State concerned.

3.2 At the meeting, the Parties shall exchange any relevant documentation or information helping to clarify the circumstances of the established facts. The shipowner or his or her representative shall be informed of the outcome of the meeting and of any measures resulting from the boarding.

4. Settlement of boarding

4.1 Before any judicial procedure, an attempt shall be made to resolve the presumed infringement by means of an amicable settlement. This procedure shall end no later than three working days after the boarding.

4.2 In the event of an amicable settlement, the amount of the fine shall be determined in accordance with Comorian legislation. This amount should be recorded, signed and sent to the European Commission as well as to the flag state.

4.3 If the case cannot be settled by amicable procedure and has to be brought before a competent judicial body, a bank security set to take account of the boarding costs and the fines and compensation payable by the parties responsible for the infringement shall be lodged by the shipowner with a bank specified by the competent Comorian authorities.

4.4 The bank security shall be irrevocable until the legal proceedings have been concluded. It shall be released once legal proceedings end without a conviction. Similarly, in the event of a conviction leading to a fine of less than the security lodged, the balance shall be released by the competent Comorian authorities.

4.5 The vessel shall be released and its crew authorised to leave the port:

- once the obligations arising under the amicable settlement have been fulfilled, or
- when the bank security referred to in point 4.3 has been lodged and accepted by the competent Comorian authorities, pending completion of the legal proceedings.

Appendices

1. Application form for a fishing authorisation
2. Seiners logbook
3. Longliners logbook
4. Declaration form for entering and leaving the zone
5. Communication of VMS messages to the Comoros – Position report.

Appendix 1

FISHING AUTHORISATION APPLICATION FORM FOR A FOREIGN FISHING VESSEL

Name of applicant:

Address of applicant:.....

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

Name and address of representative (agent) in the Comoros:.....

Name of vessel:

Type of vessel:

Country of registration:

Port and registration number:

Fishing vessel external identification:.....

Radio call sign and frequency:

Length of vessel:

Width of vessel:.....

Engine type and horse power:

Gross registered tonnage of vessel:

Net registered tonnage of vessel:

Minimum crew:

Type of fishing:

Proposed catch species:

Period of validity requested:

I, the undersigned, declare that the above particulars are correct.

Date Signature.....

Appendix 3. MODEL FISHING FORM FOR TUNA LONGLINERS

Flag country / Pavillon		
Date reported / Date de déclaration †	Name of captain / Nom du capitaine	
Reporting person / Personne déclarante	Name / Nom	Phone / Téléphone
Departure date / Date de départ †	Departure port / Port de départ	
Arrival date / Date d'arrivée †	Arrival port / Port d'arrivée	

Name of boat / nom du navire		
Vessel size / Taille du navire	GT (tons)/TB (tonnes)	LOA (m) / LHT (m)
License number / Numéro de licence		
Call sign / Indicatif radio		
Number of crew / Effectif équipage		

† use YYYY/MMDD for dates / utilisez AAAAMMJJ pour les dates

Gear configuration / configuration de l'engin	
Branch line length / Longueur des avançons (m)	
Float line length / longueur des ralingues de flotteurs (m)	
Length between branch lines / longueur entre les avançons	

Type of weight / type de poids	
<input type="checkbox"/>	whole / entier
<input type="checkbox"/>	processed / transformé

For each haul, the catches must be indicated in number and weight (kg) respectively in the upper and lower rows

Date	Position				Tunas / thons					Billfishes / Poissons-pêches					Sharks / requins				
	Latitude		Longitude		southern bluefin / thon rouge	albacore / germon	bigeye / patudo	yellowfin / albacore	skipjack / listao	Swordfish / espadon	Stripped marlin / marlin ray	blue marlin / marlin bleu	black marlin / marlin noir	Sailfish / voilier	Shortbill spearfish / marlin à rostre court	Blue shark / Peau bleue	Porbeagle / requin taupe	Mako / petite taupe	Other / autres
	Degree / Degrés	NS	Degree / Degrés	EW															
		N S		E W															
		N S		E W															
		N S		E W															
		N S		E W															

for dates, use the YYYY/MM/DD format / pour les dates, utiliser le format AAAA/MM/JJ
 for positions, use the format / pour les positions, utiliser le format XX.XX'
 ** for SST, use a value with one decimal point / pour la SST, utiliser une valeur à une décimale

Model table for monitoring the activity of Community fishing vessels in Comorian waters

Flag state	Name of vessel	Sign of vessel	Year	Category (seiner, longliner)	Authorisation	Entry in zone	Exit out of zone	Fishing days (VMS)	Catches	VMS Remarks

COMMUNICATION OF VMS MESSAGES TO THE COMOROS

POSITION REPORT

Data Element	Code	Mandatory/ Optional	Comments
Start record	SR	O	System detail – indicates start of record
Recipient	AD	O	Message detail – addressee. Alpha 3 ISO country code
From	FS	O	Message detail – sender. Alpha 3 ISO country code
Type of message	TM	O	Message detail - Message type 'POS'
Radio call sign	RC	O	Vessel detail – international radio call sign of vessel
Contracting Party internal reference number	IR	F	Vessel detail - Unique contracting Party number (flag State ISO-3 code followed by number)
External registration number	XR	F	Vessel detail – number marked on side of vessel
Flag State	FS	F	Flag state detail
Latitude	LA	O	Vessel position detail – position in degrees and minutes N/S DDMM (WGS-84)
Longitude	LO	O	Vessel position detail – position in degrees and minutes E/W DDMM (WGS-84)
Date	DA	O	Vessel position detail – date of record of UTC position (YYYYMMDD)
Time	TI	O	Vessel position detail – time of record of UTC position (HHMM)
End record	ER	O	System detail - indicates end of record

Character set: ISO 8859.1

Each data transmission is structured as follows:

- a double slash (//) and the code 'SR' indicate the start of the message;
- a double slash (//) and a code indicate the start of a data element;
- a single slash (/) separates the code and the data;
- pairs of data are separated by a space;
- the code 'ER' and a double slash (//) at the end indicate the end of a record.
- Optional data elements have to be inserted between the start and end of the record.