



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.03.2004
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2004/0058 (CNS)

Proposal for a

COUNCIL REGULATION

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period 1 July 2004 to 30 June 2005

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Republic of Cape Verde expires on 30 June 2004.

The two Parties met in Praia on 20 and 21 October 2003 in the framework of the Joint Committee provided for in Article 9 of the Fisheries Agreement between Cape Verde and the European Community.

The Parties decided to extend the Protocol for a period of one year, from 1 July 2004 to 30 June 2005. This extension, in the form of an Exchange of Letters, was initialled by them on 21 October 2003 and sets out the technical and financial conditions governing the fishing activities of Community vessels in Cape Verde waters for the period 1 July 2004 to 30 June 2005.

The Commission accordingly proposes that the Council adopt the Agreement in the form of an Exchange of Letters extending the Protocol.

A proposal for a Council Decision on the provisional application of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol pending its definitive entry into force is the subject of a separate procedure.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Under the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde³, the Contracting Parties are to enter into negotiations, before the end of the period of validity of the Protocol to the Agreement, in order to determine by common accord the terms of the Protocol for the following period and, where appropriate, any necessary amendments or additions to the Annex.
- (2) Pending negotiations on the amendments to be made to the existing Protocol approved by Regulation (EC) No 301/2002⁴, the two Parties have decided to extend its validity for one year by means of an Agreement in the form of an Exchange of Letters.
- (3) It is in the Community's interest to approve this extension.
- (4) The allocation of fishing opportunities among the Member States under the Protocol approaching expiry should be confirmed,

¹ OJ C [...] [...], p. [...]

² OJ C [...] [...], p. [...]

³ OJ L 212, 9.8.1990, p. 1.

⁴ OJ L 47, 19.2.2002, p. 2.

HAS ADOPTED THIS REGULATION :

Article 1

The Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period 1 July 2004 to 30 June 2005 is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Regulation.

Article 2

The fishing opportunities provided for in the Protocol shall be allocated among the Member States as follows:

- tuna seiners:	France:	19 vessels
	Spain:	18 vessels
- pole-and-line tuna vessels:	France:	6 vessels
	Spain:	10 vessels
	Portugal:	2 vessels
- surface longliners:	Spain:	52 vessels
	Portugal:	10 vessels
- bottom longliners:	Portugal:	630 GRT per month, averaged over the year, with no more than four vessels fishing simultaneously

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may consider licence applications from any other Member State.

Article 3

Member States whose vessels fish under this Agreement shall notify the Commission of the quantities of each stock caught within the Cape Verde fishing zone in accordance with Commission Regulation (EC) No 500/2001⁵.

⁵ OJ L 73, 15.3.2001, p. 8.

Article 4

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

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

Done at Brussels,

For the Council
The President

AGREEMENT

in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period 1 July 2004 to 30 June 2005

A. Letter from the Community

Sirs,

I have the honour to confirm that we agree to the following interim arrangements for the extension of the Protocol currently in force (1 July 2001 to 30 June 2004) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of the Republic of Cape Verde, pending the negotiations on the amendments to be made to the Protocol:

1. The arrangements applicable over the last three years will be renewed from 1 July 2004 until 30 June 2005.

The Community's financial contribution under the interim arrangements will correspond to the annual amount provided for in Article 2 of the Protocol currently in force. The financial compensation will be paid no later than 31 January 2005. Payment for the targeted measures specified in Article 3 of the Protocol will be made once the relevant requirements stipulated in that Article have been met.

2. During this period, fishing licences will be granted within the limits set in Article 1 of the Protocol currently in force, by means of fees or advances corresponding to those set in point 2 of the Annex to the Protocol.

I should be obliged if you would acknowledge receipt of this letter and confirm that you are in agreement with its terms.

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

On behalf of the Council of the European Union

B. Letter from the Government of the Republic of Cape Verde

Sirs,

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

"Sirs,

I have the honour to confirm that we agree to the following interim arrangements for the extension of the Protocol currently in force (1 July 2001 to 30 June 2004) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of the Republic of Cape Verde, pending the negotiations on the amendments to be made to the Protocol:

1. The arrangements applicable over the last three years will be renewed from 1 July 2004 until 30 June 2005.

The Community's financial contribution under the interim arrangements will correspond to the annual amount provided for in Article 2 of the Protocol currently in force. The financial compensation will be paid no later than 31 January 2005. Payment for the targeted measures specified in Article 3 of the Protocol will be made once the relevant requirements stipulated in that Article have been met.

2. During this period, fishing licences will be granted within the limits set in Article 1 of the Protocol currently in force, by means of fees or advances corresponding to those set in point 2 of the Annex to the Protocol."

I have the honour to confirm that the terms of your letter are acceptable to the Government of the Republic of Cape Verde and that your letter and this one constitute an agreement in accordance with your proposal.

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

For the Government of the Republic of Cape Verde.

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): External aspects of fisheries policy

Activit(y/ies): International fisheries agreements

TITLE OF OPERATION: EXTENSION OF THE PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND FINANCIAL CONTRIBUTION UNDER THE EC/CAPE VERDE FISHERIES AGREEMENT FOR THE PERIOD 1 JULY 2004 TO 30 JUNE 2005

1. BUDGET LINES(S) + HEADING(S)

110301 (ex B78000): "International fisheries agreements"

2. OVERALL FIGURES

2.1 Total allocation for action (Part B): €730 000 for commitments/payments

2.2 Period of application: 1 July 2004-30 June 2005

2.3 Overall estimate of expenditure: €763 192

a) Schedule of commitment appropriations/payment appropriations (financial action)
(see 6.1.1)

Amounts in €

	Year n	n+1	n+2	n+3	n+4	n+5 and subs. fin. years	Total
Commitments	680 000			---	---	---	680 000
Payments	680 000			---	---	---	680 000

(b) Technical and administrative assistance and support expenditure (see point 6.1.2)

Commitments	50 000						50 000
Payments	50 000						50 000

Subtotal a+b							
Commitments	730 000						730 000
Payments	730 000						730 000

(c) Overall financial impact of human resources and other administrative expenditure
(see points 7.2 and 7.3)

Commitments/ payments	33 192						33 192
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TOTAL a+b+c							
Commitments	763 192						763 192
Payments	763 192						763 192

2.4 Compatibility with financial programming and the financial perspective

- Proposal compatible with existing financial programming
- Proposal will entail reprogramming of the relevant heading in the financial perspective, and
- may also require recourse to the Interinstitutional Agreement.

2.5 Financial impact on revenue

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

- Proposal has financial impact - the impact on revenue is as follows:

- Note: All details and observations pertaining to the method of calculating the effect on revenue should be set out on a separate sheet attached to this financial statement.

€ million (to one decimal place)

Budget line	Revenue	Prior to action (year n-1)	Situation following action						
			Year n3	n+1	n+2	n+3	n+4	n+5	
	a) <i>Revenue in absolute terms</i> ¹								
	b) <i>Change in revenue</i> ²	Δ							

(Please state each budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line)

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
CE	DA	NO	NO	NO	No 04

4. LEGAL BASIS

Article 37 of the Treaty, in conjunction with Article 300(2) and the first subparagraph of Article 300(3).

EC/Cape Verde Agreement (OJ L 212, 9.8.1990).

5. DESCRIPTION AND GROUNDS

5.1 Need for Community action

5.1.1 Objectives pursued

The Protocol to the Fisheries Agreement between the European Community and the Republic of Cape Verde expires on 30 June 2004.

The two Parties met in Praia on 20 and 21 October 2003 in the framework of the Joint Committee provided for in Article 9 of the Fisheries Agreement between Cape Verde and the European Community. The Parties decided to extend the Protocol for a period of one year, from 1 July 2004 to 30 June 2005. This extension, in the form of an Exchange of Letters, was initialled by them on 21 October 2003 and sets out the technical and financial conditions governing the fishing activities of Community vessels in Cape Verde waters for the period 1 July 2004 to 30 June 2005.

The purpose of this extension is to allow Community shipowners to continue fishing in Cape Verde's exclusive economic zone (EEZ) pending the conclusion of negotiations on the amendments to be made to the Protocol.

5.1.2 Measures taken in connection with ex-ante evaluation

A specific ex-ante evaluation of the proposal to extend the current Protocol provisionally has not been carried out in view of its temporary, limited character, i.e. extension for one year only and on unaltered conditions. Before a new Protocol is proposed, the existing one (including the period covered by this extension) will be thoroughly evaluated (see also 8.2 below).

The following assessment of the value of the existing Protocol (2001-04) can, however, already be given.

The Protocol is the fourth since the Fisheries Agreement between the two Parties entered into force in 1990.

It is essentially a tuna agreement (117 vessels), but comprises a minor component of bottom longliners fishing for demersal species (630 GRT, with no more than four vessels fishing simultaneously). It is one of the most important tuna agreements concluded by the EC in the Atlantic.

Overall fishing opportunities under the 2001-04 Protocol cover 37 tuna seiners, 18 pole-and-line tuna vessels (10 under the previous Protocol), 62 surface longliners (26 under the previous Protocol) and 630 GRT for bottom longliners. This constitutes a considerable increase in the number of vessels compared with the previous Protocol.

The average take-up in terms of the number of licences issued has been very good for surface longliners and tuna pole-and-line vessels and good for tuna seiners, but non-existent in the case of bottom longliners.

The tuna side of the Protocol is an integral part of the network of tuna agreements covering the Atlantic zone that enables the Community fleet to follow straddling stocks.

Utilisation of the EC/Cape Verde Fisheries Agreement (in terms of vessel numbers)

Vessel type	Fishing opportunities offered	Utilisation 2001/02	Utilisation 2002/03	Utilisation 2003/04 ⁶	Average utilisation
Surface longliners	62 vessels	98%	95%	68%	87%
Bottom longliners	630 GRT	0%	0%	0%	0%
Pole-and-line tuna vessels	18 vessels	67%	94%	72%	78%
Tuna seiners	37 vessels	54%	57%	54%	55%

Tuna being a highly migratory species, actual catches in a given area may fluctuate considerably from one fishing year to the next. The catches taken by the Community fleet in Cape Verde waters cannot, therefore, be known in advance.

Catches were in general lower than the reference tonnage (1000-2000/7000 tonnes).

However, the fact that Cape Verde has been authorised to export fisheries products to the EC again since October 2003 may encourage the EC fleet to reinforce its presence in Cape Verde's exclusive economic zone and increase landings intended for local canneries.

The Agreement is clearly advantageous in that the catch value exceeds the cost of the Protocol. The average commercial value of the tuna is more than €1 000 per tonne.

⁶ Licences already issued at 29 September 2003 for the period 1 July 2003 to 30 June 2004.

In addition to the direct commercial value of the catches for the vessels involved, the Agreement yields the following manifest benefits:

- guaranteed jobs on board fishing vessels;
- multiplier effect on employment: in ports, auction markets, processing factories, shipyards, service enterprises etc.;
- location of these jobs in regions where there are no other employment opportunities;
- contribution to the supply of fish in the Community.

It should be remembered that the guidelines laid down by the Council for negotiating fisheries agreements with the ACP countries specify that account must be taken of the Community's interest in maintaining or establishing fisheries relations with the countries concerned.

5.1.3 Measures taken following ex-post evaluation

The Protocol expiring in 2004 will be thoroughly evaluated before a proposal for the Protocol for the period from July 2005 is submitted. The period covered by this extension will be included (see 8.2 below).

As regards the targeted measures which account for a significant proportion of the financial contribution, it should be noted that only the first instalment has been used by the Cape Verde authorities. Those authorities have undertaken to send a report on the utilisation of the first instalment, and to transmit their utilisation programme and application for the remaining instalments as soon as possible.

5.2 Action envisaged and budget intervention arrangements

Under the extended Protocol (2004-05), the EC will therefore pay an overall financial contribution of €680 000. Of that amount, 41% (€280 000) will go towards financing targeted measures aimed at developing the fisheries sector in Cape Verde (financing scientific and technical programmes, fisheries monitoring and control, financing study grants and training courses, programmes to develop quality control for fishery products).

The financial compensation is to be paid by 31 January 2005 into an account opened with the Public Treasury. Payment for targeted measures will be made once the relevant requirements stipulated in Article 3 of the Protocol have been met.

5.3 Implementation arrangements

The Commission is solely responsible for implementing the Protocol and will do so through its officials posted in both Brussels and its Delegation in Cape Verde.

6. FINANCIAL IMPACT

6.1 Total financial impact on Part B (over entire programming period)

6.1.1 Financial intervention

Commitments in €

Breakdown	Year n	n+1	n+2	n+3	n+4	n+5 and subs. fin. years	Total
Financial compensation	400 000						400 000
Targeted measures	280 000						280 000
etc.							
TOTAL	680 000						680 000

6.1.2 Technical and administrative assistance, support expenditure and
IT expenditure (commitment appropriations)

Amounts in €

	Year n	n+1	n+2	n+3	n+4	n+5 and subs. fin. years	Total
(1) Technical and administrative assistance:							
(a) Technical assistance offices							
(b) Other technical and administrative assistance: - intra-muros: - extra-muros: <i>of which for construction and maintenance of computerised management systems:</i>							
Subtotal 1							
(2) Support expenditure							
(a) Studies	50 000						50 000
(b) Meeting of experts							
(c) Information and publications							
Subtotal 2							
TOTAL	50 000						50 000

6.2. Calculation of costs by measure envisaged in Part B (over entire programming period)

Commitments in €

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1</u> - Measure 1 - Measure 2 <u>Action 2</u> - Measure 1 - Measure 2 - Measure 3 etc.	Fishing opportunities in exchange for financial contribution	117 tuna vessels 630 GRT/month averaged over the year		€680 000
TOTAL COST				€680 000

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

The human and administrative resource requirements are to be covered from the managing DG's allocation.

7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A		2	2	
	B	0.5		0.5	
	C	0.5		0.5	
Other human resources			0.5 AUX C	0.5	
Total		1	2.5	3.5	

7.2 Overall financial impact (human resources)

Type of human resource	Amounts in €	Method of calculation*
Officials		$(100\ 000 \times 2) + (0.5 \times 60\ 000) + (0.5 \times 47\ 000)$
Temporary staff	21 125	12
Other human resources (budget lines A-7000 and A-7003)	2 167	$(52\ 000 / 12) \times 0.5$
Total	23 292	

The amounts are total expenditure for twelve months.

7.3 Other administrative expenditure deriving from the action

Budget line (number and heading)	Amounts in €	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions	8 400	
A07030 – Meetings	1 500	
A07031 - Compulsory committees ⁽¹⁾	0	
A07032 - Non-compulsory committees ⁽¹⁾	0	
A07040 – Conferences	0	
A0705 - Studies and consultations		
...Other expenditure (specify)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (specify)		
Total	9 900	

The amounts are total expenditure for twelve months.

⁽¹⁾Specify the type of committee and the group to which it belongs.

I	Annual total (7.2 + 7.3)	€ 33 192
II.	Duration of action	1 year
III.	Total cost of action (IxII)	33 192

8. MONITORING AND EVALUATION

8.1 Monitoring arrangements

The financial compensation (€400 000/year) is to be paid each year into an account opened with the Public Treasury, to be specified by the Cape Verde authorities. The Government of Cape Verde is solely responsible for the use to which this compensation is put.

The amounts allocated to financing the targeted measures (€280 000/year) are to be made available to the Ministry responsible for fisheries in annual instalments on the basis of the breakdown in Article 3 of the Protocol.

A report on the use of the funds allocated to the targeted measures is to be presented to the Commission within three months of each anniversary date of the Protocol. The Commission is entitled to request additional information and to review the payments concerned in the light of the actual implementation of the measures.

To ensure that the Protocol is applied properly, the Community and Cape Verde can meet in a Joint Committee whenever necessary to discuss any matter concerning implementation of the Protocol.

8.2 Evaluation: arrangements and frequency

Before the Protocol currently in force is renewed in July 2005, the entire period which it covers (including the extension period) will be evaluated using indicators to measure the results (catches, catch values) and impact (number of jobs created and maintained, Protocol cost/catch value ratio). To ensure that fishing operations in the region are sustainable, an economic, social and environmental impact assessment will be made before any renewal of Protocols in the future.

9. ANTI-FRAUD MEASURES

Since the financial contributions are paid by the Community in direct exchange for the fishing opportunities offered, the third country uses them for whatever end it chooses. However, it is required to report to the Commission, as provided for in the Protocol, on the use of certain funds. All the measures referred to in Article 3 of the Protocol are the subject of an annual report on their implementation and the results obtained. The Commission reserves the right to request additional information on the results achieved and to assess payments in the light of the actual implementation of the measures.

In addition, the Member States whose vessels operate under this Agreement must certify to the Commission the accuracy of the data indicated in the tonnage certificates of the vessels so that the licence fees may be calculated on a guaranteed basis.

The extended Protocol also requires Community vessels to fill out catch declarations (which must be transmitted to the Commission and the Cape Verde authorities), which then serve as the basis for drawing up the final statement of catches under the Protocol and of fees.