



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.3.2004  
COM(2004) 194 final

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of the Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in the waters of Mauritius**

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

The Protocol annexed to the fisheries Agreement between the European Community and Mauritius expired on 2 December 2002. It has been extended for one year. A new Protocol was initialled by the two parties on 11 September 2003 establishing the technical and financial conditions under which Community fishing vessels can fish in Mauritius waters in the period 3 December 2003 to 2 December 2007.

The new Protocol grants fishing possibilities for 41 tuna seiners, 49 surface longliners and licences for 25 GRT/month on an annual average for vessels fishing by line.

The financial compensation is fixed at 487,500 € per year and covers a catch weight in the waters of Mauritius of 6,500 tons of catches per year. Part of the financial compensation equivalent to 195,000 Euro per year shall be earmarked to the financing of targeted actions, such as scientific and technical programmes, training, control and surveillance, including the VMS.

This new Protocol reinforces our fisheries relations with Mauritius promoting the responsible and sustainable fishery in the Indian Ocean and stressing the need of an efficient control and surveillance system. In this line, the following new elements have been introduced: i) duration of the Protocol 4 years instead of 3 up to now, ii) exclusive clause prohibiting any private licence or other arrangement, iii) obligation for the Community fleet operating in the Mauritian waters to embark local seamen and to apply the social clause, iv) fishing outside 15 miles from the coast instead of 12 previously, v) obligation for the Community vessels to communicate any transshipment in Mauritius and vi) sanctions for non-compliance with the Protocol and the relevant Mauritian legislation.

The Commission is accordingly proposing that the Council adopt by Decision the Agreement in the form of an exchange of letters concerning the provisional application of the new Protocol, pending its definitive entry into force.

A proposal for a Council Regulation concerning the conclusion of the new Protocol is subject to a separate procedure.

Proposal for a

## COUNCIL DECISION

**on the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of the Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in the waters of Mauritius**

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) thereof,

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

Whereas:

- (1) The Community and Mauritius held negotiations to determine the amendments or additions to be made to the Agreement on fishing off Mauritius at the end of the period of application of the Protocol;
- (2) As a result of these negotiations, a new Protocol was initialled on 11 September 2003;
- (3) Under this Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of Mauritius for the period 3 December 2003 to 2 December 2007;
- (4) In order to resume the fishing activities by Community vessels, it is essential that the Protocol in question be approved as quickly as possible; both Parties have therefore initialled an Agreement in the form of an exchange of letters providing for the provisional application of the initialled Protocol from 3 December 2003;
- (5) The Agreement in the form of an exchange of letters should be signed, subject to its definitive conclusion by the Council;
- (6) The method for allocating the fishing opportunities among Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Fisheries Agreement,

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<sup>1</sup> OJ C [...] [...], p.[...]

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement in the form of an exchange of letters on the provisional application of the Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in the waters of Mauritius is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

*Article 2*

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

- Tuna seiners: France 16, Spain 22, Italy 2, United Kingdom 1;
- Surface long-liners: Spain 19, France 23, Portugal 7;
- Vessels fishing by line: France 25 grt/month on an annual average.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration 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 Agreement in the form of an exchange of letters in order to bind the Community.

Done at Brussels,

*For the Council  
The President*

## ANNEX

### **Agreement in the form of an Exchange of Letters on the provisional application of the Protocol defining, for the period 3 December 2003 to 2 December 2007, the fishing opportunities and the financial compensation provided for by the Agreement between the European Economic Community and the Government of Mauritius on fishing in the waters of Mauritius**

#### **A. Letter from the Government of the Republic of Mauritius :**

Sir,

With reference to the Protocol, initialled on 11 September 2003, defining the fishing opportunities and the financial compensation for the period 3 December 2003 to 2 December 2007, I have the honour to inform you that the Government of the Republic of Mauritius is willing to apply the Protocol provisionally from 3 December 2003 pending its entry into force in accordance with Article 7 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial compensation laid down by Article 2 of the Protocol, must be paid before 1 June 2004.

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

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

For the Government of the Republic of Mauritius

## **B. Letter from the Community**

Sir,

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

"With reference to the Protocol, initialled on 11 September 2003, defining the fishing opportunities and the financial compensation for the period 3 December 2003 to 2 December 2007, I have the honour to inform you that the Government of the Republic of Mauritius is willing to apply the Protocol provisionally from 3 December 2003 pending its entry into force in accordance with Article 7 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial compensation laid down by Article 2 of the Protocol, must be paid before 1 June 2004.

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

I am pleased to confirm the agreement of the European Community to a provisional application.

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

For the Council of the European Union.

## PROTOCOL

### **DEFINING, FOR THE PERIOD 3 DECEMBER 2003 TO 2 DECEMBER 2007, THE FISHING OPPORTUNITIES AND THE FINANCIAL COMPENSATION PROVIDED FOR BY THE AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE GOVERNMENT OF MAURITIUS ON FISHING IN THE WATERS OF MAURITIUS**

#### *Article 1*

1. Pursuant to Article 2 of the Agreement, and for a period of four years from 3 December 2003, the following fishing possibilities shall be accorded:
  - tuna seiners: licences for 41 vessels;
  - surface longliners: licences for 49 vessels;
  - vessels fishing by line: licences for 25 GRT/month on an annual average.
2. Only Community vessels having a valid licence, issued under this Protocol and according to the formalities described in the Annex, shall be authorised to conduct fishing in Mauritius fishing zone.

#### *Article 2*

1. The financial compensation referred to in article 6 of the Agreement for the above mentioned period is fixed at 487,500 Euro per year.
2. This compensation shall cover a catch weight in waters of Mauritius of 6,500 tons of catches per year. If the annual amount of catches by Community vessels in the waters of Mauritius exceeds this quantity, the above mentioned compensation shall be increased proportionately at the rate of 75 Euro per additional ton caught. However, the total amount of the financial compensation to be paid by the Community for tuna and tuna-like species cannot exceed the double of the amount indicated in paragraph 1.
3. A first part of the financial compensation equivalent to 292,500 Euro per year shall be paid into an account in the name of the public Treasury, which will be communicated to the Delegation of the European Commission in Mauritius after the entry into force of this Protocol. The first instalment shall be payable not later than 1st June 2004 and the others in equal annual instalments by the anniversary date of the Protocol. The use to which this compensation is put shall be of the sole competence of Mauritius.
4. A second part of the financial compensation equivalent to 195,000 Euro per year shall be earmarked to the financing of the measures referred to in Article 3 of this Protocol.

### *Article 3*

1. With a view to ensuring the development of sustainable and responsible fishing the two parties will, in their mutual interest, promote a partnership for the purpose of encouraging, in particular better knowledge of fishery and biological resources, fisheries control, the development of non-industrial fishing, fishing communities, and training.
2. The measures set out below shall be financed from the second part of the financial compensation, to the amount of 195,000 Euro per year, broken down as follows:
  - a) 150,000 Euro for scientific and technical programmes to promote better understanding and management of fisheries and living resources in Mauritius' fishing zone;
  - b) 30,000 Euro for study grants and practical training courses in the various scientific, technical and economic fields linked to fishing and participation to international meetings relating to fisheries;
  - c) 15,000 Euro for monitoring, control and surveillance, including the Vessel Monitoring System (VMS).
3. The amounts mentioned in paragraph 2, sub-paragraph a) and c) shall be made available to the Mauritian Ministry responsible for fisheries after submission to the European Commission of a detailed annual programming, including a schedule, and the expected objectives of specific actions to be undertaken for each measure and no later than 1 June 2004 for the first year and by 1 April for the following years. They shall be paid into an account in the name of the public Treasury, which will be communicated to the Delegation of the European Commission in Mauritius after the entry into force of this Protocol.
4. The amount mentioned under point b) shall be made available to the Mauritian Ministry responsible for fisheries and paid as it is used to the bank accounts of the Mauritian competent authorities.
5. The Mauritian Ministry responsible for fisheries shall transmit a detailed annual report on the implementation of these measures and the results achieved to the Delegation of the European Commission in Mauritius, no later than three months after the anniversary date of the protocol. The Commission reserves the right to request additional information on these results from the Mauritian authority responsible for fisheries and to review the payments concerned in the light of the actual implementation of the measures.

### *Article 4*

Should the Community fail to make any of the payments specified in Articles 2 and 3 in due time, Mauritius may suspend the application of this Protocol.



#### *Article 5*

Where severe circumstances not attributable to natural phenomena prevent fishing activities in Mauritius' fishing zone, the European Community may suspend payment of the financial contribution following prior consultations, where possible, between the two Parties in the framework of the Joint Committee provided for in Article 8 of the Agreement.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two Parties in the framework of the Joint Committee provided for in Article 8 of the Agreement, confirming that the situation is likely to allow a return to normal fishing activities.

The validity of the licences granted to Community vessels under Article 4 of the Agreement shall be extended by a period equal to that during which fishing activities were suspended.

#### *Article 6*

The Annex to the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius is hereby repealed and replaced by the Annex to this Protocol.

#### *Article 7*

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

It shall apply from 3 December 2003.

## ANNEX

### CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY COMMUNITY VESSELS IN THE WATERS OF MAURITIUS

#### 1. Licence application and issuing formalities

The application procedure for, and issue of, the licences enabling Community vessels to fish in the waters of Mauritius shall be as follows:

- a) The European Commission shall present to the Mauritian authority via the Delegation of the European Commission in Mauritius an application, made by the ship-owner, 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 forms provided for that purpose by Mauritius, a specimen of which is attached as Appendix 1.
- b) Every licence shall be issued to the ship-owner for one designated vessel. At the request of the European Commission the licence for a vessel may and, in cases of *force majeure*, shall be replaced by a licence for another Community vessel.
- c) The licences shall be delivered by the authorities of Mauritius to the Delegation of the European Commission in Mauritius.
- d) The licence document must be held on board at all times. However, on receipt of the notification of the advance payment sent by the European Commission to the Mauritian authority, the vessel will be included on a list, to be notified to the Mauritian fisheries control authorities. Whilst awaiting receipt of the licence document, a fax copy of this licence document may be obtained and shall be kept on board, which will authorise the vessel to fish, pending delivery on board of the licence document.
- e) The Mauritian authority shall communicate before the date of entry into force of the Protocol the arrangements for payments of the licence fees, and in particular the details of the bank account and the currency to be used.
- f) Ship-owners shall nominate and appoint an agent who shall be resident in Mauritius and whose powers shall include representation of the ship-owners in any legal process. The ship-owners shall notify to the Mauritian authorities the name and address of his agent.

#### 2. Validity of licences and payment of fees

##### *1) Advance payments*

For tuna seiners and surface longliners, licences shall be valid for a period of one year. They are renewable.

The fee shall be set at 25 Euro per ton caught in the waters of Mauritius.

For tuna seiners, licences shall be issued on advance payment of an annual sum of 2,000 Euro per tuna seiner, equivalent to the fees for 80 tons of annual catches within the waters of Mauritius.

For surface longliners, licences shall be issued on advance payment to Mauritius of an annual sum of 1,550 Euro for surface longliner of more than 150 GRT and 1,100 Euro for surface longliners of 150 GRT or less. These amounts correspond respectively to the fees due for 62 tons and for 44 tons of annual catches in Mauritian waters.

For vessels fishing by line, licences shall be valid for three, six or twelve months. The fee shall be fixed in relation to the GRT as follows: 80 Euro per year per GRT *pro rata temporis*.

## 2) *Final statement*

For tuna seiners and surface longliners, a final statement of the fees due for the fishing year shall be drawn up by the European Commission at the end of each calendar year on the basis of the catch statements made by the ship-owners and confirmed by the scientific institutes competent for verifying catch statistics such as IRD (Office for Research and Development), IFREMER (Institut Français de Recherche et d'Exploitation de la Mer), IEO (Spanish Oceanographic Institute), IPIMAR (Instituto Nacional das Pescas e do Mar) or any international fishing organisation in the Indian Ocean, as may be designated by the Mauritian authority.

The statement shall be notified to the Mauritian authorities not later than 15 March of the following year. The Mauritian authority shall react within 30 days after this notification. The statement shall then be notified to the ship-owners.

The ship-owners shall meet their financial obligations within 30 days of the receipt of the statement.

If the amount of the sum due for actual fishing operations is less than the advance payment, the corresponding outstanding sum shall not be recoverable by the ship-owner.

## **3. Transhipment**

Vessels may tranship their catches in Mauritius according to their interests.

All transhipments taking place in Mauritian ports shall be notified to the authorities of Mauritius 48 hours in advance.

## **4. Declarations of catches**

Vessels authorised to fish in the waters of Mauritius under the Agreement shall notify their catch statistics to the Mauritian authority, with a copy for the Delegation of the European Commission in Mauritius, in accordance with the following procedure.

Tuna seiners shall complete a fishing logbook corresponding to the specimen in Appendix 2. Surface longliners shall complete a fishing logbook corresponding to

the specimen in Appendix 3. Vessels fishing by line shall complete a fishing logbook corresponding to the specimen in Appendix 4.

Fishing logbooks must be completed legibly and be signed by the master of the vessel or by the representative of the ship-owner's association. In addition, they must be completed by all vessels which have obtained a licence, even if they have not fished.

The fishing logbooks shall be forwarded to the Mauritian authority not later than 45 days after each fishing campaign.

## **5. Communication**

Vessels above 50 GRT shall communicate, at least one (1) hour before entering and/or leaving Mauritian waters, and, every three days, while fishing in Mauritian waters, to a radio station (the name, call sign and frequency of which shall be specified in the licence) or by fax (No 230-208-1929) or by e-mail (fish@intnet.mu), their position and the volume of catches on board.

## **6. Observers**

Any vessel above 50 GRT shall, at the request of the authorities of Mauritius, take on board an observer designated by these authorities. The observer shall have all facilities necessary for the performance of his duties, as set out below, including access to places and documents. He must not be present for longer than the time required to fulfil his duties. He shall be granted officer status while on board.

He shall be provided with suitable food and accommodation while on board. The salary and social contributions of the observer shall be borne by the authorities of Mauritius.

The embarkation port as well as the conditions governing his embarkation shall be fixed by common agreement between the ship-owner or his agent and the authorities of Mauritius.

Should a vessel with a Mauritian observer on board leave the waters of Mauritius, every step will be taken to ensure that the observer returns to Mauritius as soon as possible, at the ship-owner's expense.

The ship-owner shall, via his agent, make a payment of 14 Euro to the Mauritian government of each day spent by an observer on board a vessel in the Mauritius' fishing zone.

Once on board the observer shall:

- observe the fishing activities of the vessels;
- verify the position of vessels engaged in fishing operations;
- note the fishing gear used;
- verify the catch data for Mauritius' fishing zone recorded in the logbook;

- draw an activity report to be transmitted to the Mauritan authority.

While on board , the observer:

- must take all appropriate steps to ensure that the conditions under which he is taken on board and his presence on board do not interrupt or hamper fishing activities;
- must respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.

## **7. Inspection**

Vessels shall also allow on board and assist in the accomplishment of their duties, any other Mauritian official responsible for inspection and monitoring.

## **8. Employment of seamen**

Ten (10) Mauritian seamen shall embark on the EC fleet.

For local seamen embarked to EC vessels, an employment contract shall be established between the owner of the vessel or his agent and the seaman and/or his labour union or his representative in liaison with the competent authorities of Mauritius. These contracts shall guarantee to the seamen the benefit of their social security regime, including a life, health and accident insurance. The local seamen remuneration conditions cannot be inferior of those applicable to the local crews and in any case not inferior to the ILO standards.

Copy of the contract shall be given to the signatories thereof and to the authorities of Mauritius.

In case the employment contract is established with a vessel owner's agent, it shall specify the name of the owner of the vessel and the flag state.

The owner of the vessel shall guarantee to the local seamen embarked life and work conditions aboard similar to those that the EC seamen benefit.

In case of non-embarkation, the ship-owners shall pay a lump-sum equivalent to the salary of the seamen non-embarked for the duration for the fishing campaign in the waters of Mauritius. In case the fishing campaign lasts less than one month, ship-owners shall be required to pay the sum corresponding to one month's salary..

## **9. Fishing zones**

To avoid any adverse effect to small-scale fisheries in Mauritius, fishing by Community tuna seiners and surface longliners shall not be authorised within a distance of fifteen (15) nautical miles measured from the baseline nor within a three (3) nautical miles radius around any fish-aggregating device placed by Mauritius, the geographical position of which shall be communicated to the ship-owners representatives or agents.

Vessels fishing by line are only authorised to fish in their traditional grounds, namely Soudan Bank and East Soudan Bank.

## **10. Supply to the Tuna Canning Industry**

Community tuna vessels shall endeavour to sell part of their catch to the Mauritian tuna canning industry at a price to be fixed in common agreement between Community ship-owners and the owners of the Mauritian tuna canning industry.

## **11. Sanctions**

Notwithstanding any sanction provided for in Mauritian law, failure to observe any of the conditions of the Protocol and this Annex or any relevant Mauritian legislation may be dealt with by suspension, revocation or non-renewal of the fishing licences of the vessel in question. Before taking any of these sanctions, the Mauritian authorities shall give due regard to the gravity of the failure and apply the principle of proportionality. Suspension or revocation of a fishing licence shall be regarded as force majeure for the purpose of paragraph (b) in the section on licence application and issuing formalities above.

The Delegation of the European Commission and the ship-owner's agent in Mauritius shall be notified in writing within 24 hours of any suspension, revocation or non-renewal of a licence with a brief report of the relevant facts.

## **12. Procedure in case of boarding**

### **1) Transmission of information.**

The Mauritian authority responsible for fisheries shall inform the Delegation of the European Commission in Mauritius and the flag State in writing, within 48 hours, of the boarding of any fishing vessel flying the flag of a Member State of the Community fishing under the Fisheries Agreement in Mauritius's fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The Delegation and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

### **2) Settlement of boarding**

In accordance with the law on fisheries and the relevant regulations, infringements may be settled:

- a) either by composition, in which case the amount of the fine shall be determined in accordance with the Mauritian legislation laying down minimum and maximum figures;
  - b) or by legal proceedings, if no composition is possible, in accordance with the Mauritian law.
- 3) The vessel shall be released and its crew authorised to leave the port:
- a) either as soon as the obligation imposed by the composition procedure have been completed on presentation of the receipt for the settlement, or
  - b) on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.

**Appendix 1**

**APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE**

Name of applicant : .....

Address of applicant : .....

.....

Name and address of charterers of vessels if different from above : .....

.....

Name and address of agent in Mauritius:.....

.....

Name of vessel : .....

Type of vessel : .....

Country of registry : .....

Port and registration number : .....

Fishing vessel external identification : .....

Radio call sign and frequency : .....

Fax number of vessel : .....

Length of vessel : .....

Width of vessel : .....

Engine type and power : .....

Gross registered tonnage of vessel : .....

Net registered tonnage of vessel : .....

Minimum crew complement : .....

Type of fishing practised : .....

Proposed species of fish : .....

.....

Period of validity requested : .....

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: \_\_\_\_\_

0 to 24

Moon sets: \_\_\_\_\_ 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)

**Appendix 4**  
**Fishery by line**

Month	
Year	

**Name of vessel :** ..... **Engine Power :** ..... **Fishing Method :** .....  
**Nationality (flag) :** ..... **Gross tonnage :** ..... **Port of landing :** .....

Date	Fishing Area		Number of hours	Number of hours fishing	Fish Species							TOTAL	
	Longitude	Latitude											
1/													
2/													
3/													
4/													
5/													
6/													
7/													
8/													
9/													
10/													
11/													
12/													
13/													
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24/													
25/													
26/													
27/													
28/													
29/													
30/													
31/													
	TOTAL												