



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.9.2005
COM(2005)420 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 setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol annexed to the fisheries Agreement between the European Community and Seychelles expires on 17 January 2005. A new Protocol was initialled by the two parties on 23 September 2004 establishing the technical and financial conditions under which Community fishing vessels can fish in Seychelles waters for the period 18 January 2005 to 17 January 2011.

The new Protocol grants fishing possibilities for 40 tuna seiners and 12 surface longliners.

The financial compensation is fixed at 4,125,000 € per year and covers a catch weight in the waters of Seychelles of 55,000 tons of catches per year. Part of the financial compensation equivalent to 1,485,000 Euro per year (36% of financial compensation) shall be earmarked to enhancing and implementing a sectoral fisheries policy in Seychelles with a view to promote responsible fishing and sustainable fisheries in its waters.

The new Protocol is in line with the partnership approach in the fisheries sector, as defined by the Council in its recent conclusions on a Communication from the Commission on an integrated framework for Fisheries Partnership Agreements with third countries (Document n° 15243/02 PECHÉ 224, referred to document COM(2002) 637 final).

According to the Protocol, the Commission and Seychelles shall agree on overall objectives to be achieved in the area of sustainable fishing and on the way to review the performance of such objectives, through a constant political dialogue. This shall go much beyond the current reporting procedures, (submission of annual detailed reports and verification).

The Commission shall, in particular, encourage the authorities of the Seychelles to adopt all necessary conservation and management measures, on non-discriminatory basis, in order to ensure sustainable exploitation of highly migratory species and to protect the environment in its waters.

Both Parties should exchange information on the implementation of IOTC recommendations against IUU within their jurisdiction (prohibition of landings by vessels not listed on the “white” list).

Finally, both Parties shall seek to identify concrete issues of mutual interest and agree the form in which the political dialogue will be undertaken.

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.

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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) thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The Community and Seychelles held negotiations to determine the amendments or additions to be made to the Protocol attached to the Agreement between the European Economic Community and the Republic of Seychelles² at the end of the period of application of the Protocol;
- (2) As a result of these negotiations, a new Protocol was initialled on 23 September 2004;
- (3) Under this Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of Seychelles for the period 18 January 2005 to 17 January 2011;
- (4) In order to guarantee the continuation of 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 18 January 2005; the Agreement in the form of an exchange of letters should be signed, subject to its definitive conclusion by the Council;
- (5) 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,

¹ OJ C [...], [...], p. [...].

² OJ L 119 of 7.5.1987, p. 26.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters on the provisional application of the Protocol setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles 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: 17 vessels,
Spain: 22 vessels,
Italy: 1 vessel.
- Surface long-liners: Spain: 2 vessels,
France: 5 vessels,
Portugal: 5 vessels.

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 setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

A. Letter from the Government of the Republic of Seychelles:

Sir,

With reference to the Protocol, initialled on 23 September 2004, setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution, I have the honour to inform you that the Government of the Republic of Seychelles is willing to apply the Protocol provisionally from 18 January 2005 pending its entry into force in accordance with Article 11 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial contribution, laid down by Article 2 of the Protocol, must be paid before 30 September 2005.

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 Seychelles

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 23 September 2004, setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution, I have the honour to inform you that the Government of the Republic of Seychelles is willing to apply the Protocol provisionally from 18 January 2005 pending its entry into force in accordance with Article 11 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial contribution, laid down by Article 2 of the Protocol, must be paid before 30 September 2005.

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

Protocol setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

Article 1

Period of application and fishing opportunities

1. For a period of 6 years from 18 January 2005 to 17 January 2011, the fishing opportunities granted under Article 2 of the Agreement shall be as follows:
 - (a) 40 ocean-going tuna seiners, and
 - (b) 12 surface longliners.
2. Paragraph 1 shall apply subject to Articles 4 and 5 of this Protocol.
3. Under Article 4 of the Agreement, vessels flying the flag of a Member State of the European Community may engage in fishing activities in the Seychelles waters only if they are in possession of a fishing licence issued under this Protocol in accordance with the Annex hereto.

Article 2

Financial contribution - Methods of payment

1. For the period referred to in Article 1, the financial contribution referred to in Article 6 of the Agreement shall be EUR 24 750 000.
2. Paragraph 1 shall apply subject to Articles 4, 6 and 8 of this Protocol.
3. The Community shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 4 125 000 per year during the period of application of this Protocol.
4. If the total quantity of tuna catches per year by Community vessels in Seychelles' waters exceeds 55 000 tonnes, the total annual financial contribution shall be increased by EUR 75 per additional tonne of tuna caught. However, the total annual amount to be paid by the Community cannot exceed EUR 8 250 000.
5. Payment shall be made no later than 30 September 2005 for the first year and no later than the anniversary date of the Protocol for the following years.
6. Subject to Article 6 herewith, Seychelles shall have full discretion regarding the use to which this financial contribution is put.
7. The financial contribution shall be paid into no more than two Public Treasury accounts opened with the Seychelles Central Bank.

Article 3
Cooperation on responsible fishing

1. The two parties hereby undertake to promote responsible fishing in Seychelles waters based on the principle of non-discrimination between the different fleets fishing in those waters.
2. Based on the recommendations and resolutions taken within the Indian Ocean Tuna Commission (IOTC) and the best available scientific advice and, where appropriate after a joint meeting of scientist, the two parties may consult each other within the Joint Committee provided for in Article 7 of the Agreement and, where necessary, and agree the measures to ensure the sustainable management of fisheries resources.

Article 4
Review of fishing opportunities

1. The fishing opportunities referred to in Article 1 may be increased by mutual agreement insofar as the conclusions of the joint meeting of scientists referred to in Article 3(2) confirm that such an increase will not endanger the sustainable management of Seychelles' resources. In this case the financial contribution referred to in Article 2(1) shall be increased proportionately and *pro rata temporis*. However, the total amount of the financial contribution paid by the European Community shall not be more than twice the amount indicated in Article 2(1). In the event that the quantities caught by Community fishing vessels exceed the quantity which correspond to the total amount of financial contribution, the Parties shall consult each other as soon as possible in order to establish the amount due for the quantity caught in excess of this limit.
2. Conversely, if the parties agree to reduce the fishing opportunities provided for in Article 1, the financial contribution shall be reduced proportionally and *pro rata temporis*.
3. The allocation of the fishing opportunities among different categories of vessels may also be reviewed by mutual agreement between the parties, provided that any changes comply with any recommendations or resolutions adopted by the IOTC regarding the management of stocks liable to be affected by such redistribution. The parties shall agree on the corresponding adjustment of the financial contribution where the redistribution of fishing opportunities so warrants.

Article 5
New fishing opportunities

1. In the event that Community fishing vessels become interested engaging in fisheries not provided for in Article 1, the Parties shall consult each other before authorisation is granted for any such activities and, where appropriate, agree to the conditions for such fishing including effecting corresponding amendments to this Protocol and the Annex thereto.
2. The parties should encourage experimental fishing, specially relating to deep water species, present in Seychelles waters. To this end and on the request of one party, they

shall consult each other and determine on a case by case basis, the species, conditions and other parameters that are relevant.

The parties shall carry out experimental fishing in accordance with parameters that will be agreed by both parties in an administrative arrangement where appropriate. The authorisations for experimental fishing should be agreed for a maximum period of 6 months.

In the event that the parties consider that experimental campaigns have given positive results, the Government of Seychelles may allocate fishing possibilities of the new species to the community fleet until the expiration of the present protocol. The financial compensation mentioned in article 2.1 of the current protocol shall consequently be increased.

Article 6

Suspension and review of the payment of the financial contribution

1. Where as a result of circumstances solely attributable to the fault or negligence of Seychelles fishing activities in Seychelles waters cannot be carried out in Seychelles waters, the European Community may, after prior consultation with the Seychelles, suspend payment of the financial contribution provided that the Community has paid in full any amounts due at the time of suspension.
2. Payment of the financial contribution shall recommence once the situation has returned to normal and following consultation and agreement between the two Parties confirming that the situation is likely to allow a return to normal fishing activities.

Article 7

Promoting responsible fishing and sustainable fisheries in Seychelles waters

1. A share of at least 36 % of the financial contribution referred to in Article 2(1) shall be put towards defining and implementing a sectoral fisheries policy in Seychelles with a view to promote responsible fishing and sustainable fisheries in its waters. This contribution shall be managed in the light of objectives identified by mutual agreement between the two parties, and the annual and multiannual programming to attain them.
2. For the purposes of paragraph 1, as soon as this Protocol enters into force and no later than three months after that date, the Community and Seychelles shall agree, within the Joint Committee provided for in Article 7 of the Agreement, on a multiannual sectoral programme and detailed implementing rules covering, in particular:
 - (a) annual and multiannual guidelines for using the percentage of the financial contribution referred to in paragraph 1;
 - (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible fishing and sustainable fisheries, taking account of the priorities expressed by Seychelles in its national fisheries policy and other policies relating to or having an impact on the promotion of responsible fishing and sustainable fisheries;

- (c) criteria and procedures for evaluating the results obtained each year.
3. Any proposed amendments to the multiannual sectoral programme must be approved by both parties within the Joint Committee.
 4. Each year, Seychelles shall allocate the percentage of the financial contribution referred to in paragraph 1 with a view to implementing the multiannual programme. For the first year of application of the Protocol, that allocation must be notified to the Community at the time when the multiannual sectoral programme is approved within the Joint Committee. For each year thereafter, Seychelles shall notify the Community of the allocation no later than 1st December of the previous year.
 5. Where the annual evaluation of the progress made in implementing the multiannual sectoral programme so warrants, the European Community may ask with the approval of the Joint Committee for the financial contribution referred to in Article 2(1) of this Protocol to be modified with a view to bringing the actual amount of financial resources allocated to implementation of the programme into line with its results.

Article 8

Disputes - suspension of application of the Protocol

1. Any dispute between the parties over the interpretation of this Protocol or its application shall be the subject of consultations between the parties within the Joint Committee provided for in Article 7 of the Agreement, in a special meeting if necessary.
2. Without prejudice to Article 9, application 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 under paragraph 1 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 9

Suspension of application of the Protocol on grounds of non-payment

Subject to Article 3, if the European Community fails to make the payments provided for in Article 2, Seychelles may suspend the implementation of this Protocol.

Article 10
National law

The activities of Community fishing vessels in Seychelles are subject to the national laws and regulations unless otherwise provided under this Protocol and the Annex thereto.

Article 11
Revision clause

Following the third anniversary of this Protocol and the Annex thereto, the Parties will review the application of the Protocol and the Annex thereto and, where appropriate, consult on any amendments of their provisions. Any such amendments may include the reference tonnage and the standard amounts paid for licences and the ratio between the amount per tonne set out in Article 2 (4) and the amount indicated in section 2 (2) of the Annex to this Protocol.

Article 12
Repeal

The Protocol and Annex I, dated 17 January 2002, to the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles, which came into force on 28 October 1987, is hereby repealed and replaced by this Protocol and the Annex thereto.

Article 13
Entry into force

1. 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.
2. It shall apply with effect from 18 January 2005.

ANNEX

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

CHAPTER I - APPLICATION FOR AND ISSUE OF LICENCES

Section 1 Issue of licences

1. Only eligible Community vessels may obtain a licence to fish in Seychelles waters under the Protocol setting out, for the period from 18 January 2005 to 17 January 2011, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles
2. For a Community vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in Seychelles. They must be in order with the authorities of the Seychelles insofar as they must have fulfilled all prior obligations arising from their fishing activities in Seychelles under fisheries agreements concluded with the Community.
3. All Community vessels applying for a fishing licence shall be represented by an agent resident in Seychelles. The name and address of that agent shall be stated in the licence application.
4. The relevant Community authorities shall present to the SFA 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. However, vessel-owners who have not submitted a licence application prior to the period of validity may do so, during the period of validity, no later than 20 days before the start of the fishing activities. In such cases, vessel owners shall pay the entire fees due for the full year.
5. Applications shall be submitted to the competent authority of Seychelles on a form drawn up in accordance with the specimen in Appendix 1.
6. All licence applications shall be accompanied by the following documents:
 - proof of payment of the fee for the period of validity of the licence;
 - 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 authorities of Seychelles.
8. Fees shall include all national and local charges except for port taxes and service charges.
9. Licences for all vessels shall be issued to shipowners or their agents within 15 days of receipt of all the documents referred to in point 6 by the competent authority of Seychelles.

A copy shall be sent to the Delegation of the Commission responsible for the Seychelles.

10. Licences shall be issued for a specific vessel and shall not be transferable.
11. However, at the request of the European Community and where *force majeure* is proven, a vessel's licence shall be replaced, for the remaining period of its validity, by a new licence for another vessel whose features are similar to those of the first vessel, with no further fee due. However, if the gross registered tonnage (GRT) of the replacement vessel is above that of the vessel to be replaced, the difference in fee shall be paid *pro rata temporis*.
12. The owner of the first vessel, or the agent, shall return the cancelled licence to the competent authority of Seychelles via the European Commission Delegation responsible for the Seychelles.
13. The new licence shall take effect on the day that the vessel's owner returns the cancelled licence to the competent authority of Seychelles. The European Commission Delegation responsible for the Seychelles shall be informed of the licence transfer.
14. The licence must be kept on board at all times, without prejudice to point 2 of Chapter IX of this Annex.

Section 2
Licence conditions – fees and advance payments

1. Licences shall be valid for one year and are renewable.
2. The fee shall be EUR 25 per tonne caught within Seychelles waters.
3. Licences shall be issued once the following standard amounts have been paid to the competent national authorities:
 - EUR 15 000 for tuna seiners, equivalent to the fees due for <600> tonnes of tuna and tuna-like species caught within Seychelles waters per year;
 - EUR 3 000 for surface longliners of more than 150 GRT, equivalent to the fees due for 120 tonnes of tuna and tuna-like species caught within Seychelles waters per year;
 - EUR 2 250 for surface longliners of 150 GRT or less, equivalent to the fees due for 90 tonnes of tuna and tuna-like species caught within Seychelles waters per year.
4. The SFA shall draw up a statement of fees due in respect of the previous calendar year on the basis of catch declarations by Community vessels and other information in the possession of the SFA.
5. The statement shall be sent to the Commission before 31 March of the current year. The Commission shall transmit it before 15 April simultaneously to shipowners and national authorities of the concerned Member States.
6. Where the shipowners do not agree with the statement submitted by the SFA, they may consult the scientific institutes competent for verifying catch statistics such as the IRD (Institut de Recherche pour le Développement), the IEO (Instituto Español de Oceanografía) and IPIMAR (Instituto de Investigação das Pescas e do Mar), and thereafter

discuss together with the Seychelles authorities to establish the final statement before 31 May of the current year. In the absence of observations by the shipowners at that date, the statement submitted by the SFA is considered as the final one.

7. Member States shall notify the Commission of the final statement relating to their own fleet.
8. Shipowners shall make any additional payment to the Seychelles competent authorities at the latest by 30 June of the same year at a bank account designated by the authorities of the Seychelles in accordance with Art. 2 (6) of the Protocol.
9. Where the final statement is less than the advance payment referred to in paragraph 3, the balance shall not be recoverable by the shipowner.

CHAPTER II - FISHING ZONES

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

CHAPTER III – CATCH REPORTING ARRANGEMENTS

1. For the purposes of this Annex, the duration of a trip by a Community vessel shall be defined as follows:
 - either the period elapsing between entering and leaving Seychelles waters;
 - or the period elapsing between entering Seychelles waters and a transhipment;
 - or the period elapsing between entering Seychelles waters and a landing in Seychelles.
2. All vessels authorised to fish in Seychelles waters under the Agreement shall be obliged to communicate their catches to the competent authority of Seychelles in the following manner:
 - 2.1. The Community vessels licensed to fish in Seychelles waters shall fill a fishing form as set out in Appendices 2 and 3, for each trip it undertakes in Seychelles waters. In the absence of catches, the fishing forms shall still be filled in.
 - 2.2. As far as the submission of the fishing forms referred to in points 2.1 and 2.3 is concerned, the Community vessels shall:
 - in the case they call into Port Victoria, submit the completed forms to the Seychelles authorities within five days of arrival, or in any event before it leaves port, whichever occurs first;
 - in any other case, send the completed forms to the Seychelles authorities within 14 days of arrival in any port other than Victoria.

Copies of these fishing forms must also be sent to the scientific institutes referred to in section 2.6

- 2.3 The words “Outside Seychelles waters” shall be entered in the abovementioned logbook in respect of periods during which the vessel is not in Seychelles waters.
- 2.4 The forms shall be filled in legibly and signed by the master of the vessel or his representative.
3. Where the provisions set out in this Chapter are not complied with, the Government of Seychelles reserves the right to suspend the licence of the offending vessel until formalities have been completed and to apply the penalty laid down in existing Seychelles legislation. The flag Member State and the European Commission shall be informed thereof.

CHAPTER IV – EMBARKING SEAMEN

1. Each tuna seiner shall take on board during its trip in Seychelles’ waters at least two Seychelles seamen designated by the agent of the vessel, in agreement with the shipowner, from the names on a list submitted by the competent authority of Seychelles.
2. Shipowners shall endeavour to take on board additional Seychelles seamen.
3. The shipowner or agent shall inform the competent authority of Seychelles of the names and particulars of the Seychelles seamen taken on board the vessel concerned, mentioning their position in the crew.
4. The International Labour Organisation’s 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.
5. Seychelles 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 authorities of Seychelles. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance and the pension benefits applicable to them.
6. Seychelles seamen’s wages shall be paid by the ship-owners. They shall be fixed, before licences are issued, by mutual agreement between the ship-owners or their agents and the competent authorities of Seychelles. However, the wage conditions granted to Seychelles seamen shall not be lower than those applied to Seychelles crews performing similar duties and shall under no circumstances be below ILO standards.
7. For the purposes of the enforcement and application of the law of employment the ship-owner agent shall be considered as the local representative of the ship-owner. The contract concluded between the agent and the seamen shall include also the conditions for repatriation and the pension benefit applicable to them.

8. All seamen employed aboard Community 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, ship-owners shall be automatically absolved of their obligation to take the seaman on board.
9. Where no Seychelles seamen are taken on board for reasons other than that referred to in the previous point, shipowners shall be obliged to pay a flat-rate amount equivalent to a figure based on the number of days that the vessel operated in Seychelles' waters multiplied by the amount per day which is fixed at \$ 20. The flat rate amount shall be paid to the Seychelles authorities at the latest by the date set out in section 2 (8) of chapter I.
10. That sum shall be used for the training of seamen/fishermen in Seychelles and shall be paid into an account specified by the authorities of Seychelles.

CHAPTER V – TECHNICAL MEASURES

Vessels shall comply with the measures and recommendations adopted by Indian Ocean Tuna Commission as well as the applicable national measures regarding fishing gear and the technical specifications thereof and all other technical measures applicable to their fishing activities.

CHAPTER VI - OBSERVERS

1. Vessels authorised to fish in Seychelles waters under the Agreement shall take on board observers appointed by Seychelles on the terms set out below.
 - 1.1 Community fishing vessels shall, at the request of the Seychelles authorities, take on board one observer, and when the authorities of Seychelles think it appropriate and necessary, two observers, designated by the said authorities.
 - 1.2 The competent authority of Seychelles 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 authority of Seychelles shall inform the shipowners concerned, or their agents, of the name of the observer appointed to be taken on board their vessel or no later than 15 days before the observer's planned embarkation date.
2. The time spent on board by observers shall be fixed by the competent authority of Seychelles but, as a general rule, it should not exceed the time required to carry out their duties. The competent authority shall inform the shipowners or their agents thereof when notifying them of the name of the observer appointed to be taken on board the vessel concerned.
3. The conditions under which observers are taken on board shall be agreed between shipowners or their agents and the authorities of Seychelles.
4. Observers shall be taken on board in a manner chosen by the shipowner, after notification of the list of designated ships.

5. Within two weeks and giving ten days' notice, the shipowners concerned shall make known at which port of Seychelles and on what dates they intend to take observers on board.
6. Where observers are taken on board in a foreign port, their travel costs shall be borne by the shipowner. Should a vessel with an observer from Seychelles on board leave Seychelles waters, all measures must be taken to ensure the observer's return to Seychelles as soon as possible at the expense of the shipowner.
7. If the observer is not present at the time and place agreed and during 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 perform biological sampling in the context of scientific programmes;
 - 8.4 note the fishing gear used;
 - 8.5 verify the catch data for Seychelles waters recorded in the logbook;
 - 8.6 verify the percentages of by-catches and estimate the quantity of discards;
 - 8.7 report fishing data once a week by fax or e-mail or other means of communication, including the quantity of catches and by-catches on board taken in Seychelles waters.
9. Masters of vessels shall do everything in their power to ensure the physical safety and welfare of observers during performance of their duties.
10. Similarly, as far as possible, they 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 as observer.
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 authorities of Seychelles, with a copy to the European Commission, which shall be signed by the observer. A copy of the report shall be handed to the master when the observer leaves the vessel.

13. Shipowners shall bear the cost of accommodating observers in the same conditions as the officers on the vessel.
14. The salary and social contributions of the observer shall be borne by the competent authorities of Seychelles.

CHAPTER VII – LANDING

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

CHAPTER VIII – PORT EQUIPMENT AND USE OF SUPPLIES AND SERVICES

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

CHAPTER IX - MONITORING

1. Vessel list

The European Community shall keep an up-to-date list of the vessels to which a fishing licence has been issued under this Protocol. This list shall be notified to the authorities of Seychelles responsible for fisheries inspection as soon as it is drawn up and each time it is updated.

2. Vessels Monitoring System:

Community vessels shall be monitored, inter alia, by vessel monitoring systems, without discrimination, in accordance with the provisions set out in appendix 4.

3. Entering and leaving Seychelles waters:

- 3.1 Community vessels shall notify the competent authorities of Seychelles at least (3) hours in advance of their intention to enter or leave Seychelles' waters and every three days during their fishing activities in Seychelles waters of their catches during this period.
- 3.2 When notifying entry/leaving, vessels shall also communicate their position at the time of communication and the volume and species in catches kept on board. These communications shall be made in the format set out in appendix 5, by fax or e-mail, to the addresses provided therein. However, the competent authorities of the Seychelles may exempt surface long liners not fitted with the appropriate communication equipment from this obligation by authorising communication by radio.
- 3.3 Community fishing vessels found to be fishing without having informed the competent authorities of Seychelles shall be deemed as vessels without a licence. The sanctions referred to in Chapter X, point 1 will be applicable in such cases.

4. Control procedures

- 4.1 Masters of Community fishing vessels engaged in fishing activities in Seychelles waters shall cooperate with any Seychelles official carrying out inspection and control of fishing activities.
- 4.2 These officials shall not remain on board for longer than is necessary for the discharge of their duties.
- 4.3 Once an inspection has been completed, a copy of the inspection report shall be given to the master of the vessel.

5. Transhipment

- 5.1 All Community vessels wishing to tranship catches in Seychelles waters shall do so within Seychelles ports.
- 5.2 The owners of such vessels must notify the following information to the competent authority of Seychelles at least 24 hours in advance:
- the names of the transshipping fishing vessels,
 - the names of the cargo vessels,
 - the tonnage by species to be transhipped,
 - the day of transhipment.
- 5.3 Transhipment shall be considered as an exit from 'Seychelles waters. Vessels must therefore submit their catch declarations to the competent authorities of Seychelles.
- 5.4 Any transhipment of catches not covered above shall be prohibited in Seychelles waters. Any person infringing this provision shall be liable to the penalties provided for by the Seychelles law.
- 5.5 Masters of Community fishing vessels engaged in landing or transhipment operations in a port of Seychelles shall allow and facilitate the inspection of such operations by Seychelles inspectors. Once the inspection has been completed, a certificate shall be issued to the master of the vessel.

CHAPTER X -ENFORCEMENT

1. Sanctions

Failure to observe any one of the above rules, the management and conservation of living resources measures or the Seychelles legislation may be penalised by suspension, revocation or non-renewal of the vessel's fishing licence.

The flag Member State and the European Commission will immediately be fully informed of any suspension or revocation and of all relevant facts related thereto. During the period of the suspension of a licence or during the remaining period of the validity of a licence

which has been revoked, the European Commission may request another licence which would have otherwise have been applicable, for a vessel from another ship-owner, in accordance with the procedure set out in point 1.11 of chapter I.

2. Arrest of fishing vessels

The Seychelles authorities shall inform the Delegation of the Commission responsible for the Seychelles and the flag State, within 48 hours, of the arrest of any fishing vessel flying the flag of a Member State of the Community fishing under the Agreement in Seychelles fishing zone and shall transmit a brief report of the circumstances and reasons leading to such arrest. The Delegation and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

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Appendix 1

APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE

- Name of applicant:
- Address of applicant:
- Name and address of charterer of vessel if different from above:
- Name and address of other legal representative in Seychelles:
- Name and address of master of vessel:
- Name of vessel:
- Type of vessel:
- Length and registered net tonnage of vessel:
- Engine type, horse power and gross registered tonnage:
- Port and country of registry:
- Registration number:
- Fishing vessel external identification:
- Radio call sign/signal letters:
- Frequency:
- Particulars of equipment:
- Number and nationality of crew:
- Proposed fishing area and species of fish:
- Description of fishing operations, joint ventures and other contractual arrangements:

I certify that the above particulars are correct.

Date:

Signature:

Appendix 3

STATEMENT OF CATCH FOR SURFACE LONGLINERS

Name of vessel: _____ Skipper's name: _____

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

Trip number: _____ Setting number: _____

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

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				

Number of hooks: _____	Branch lines: _____
Length: Buoy 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)

* VDK.
 ** With head, gilled.
 State the type of weight used (VAT, VDK, whole) if different from that specified.

Appendix 4

PROVISIONS

ESTABLISHING THE METHOD TO BE USED FOR THE TRANSMISSION OF DATA RELATING TO SATELLITE MONITORING OF THE POSITION OF EC VESSELS FISHING UNDER THE EC/SEYCHELLES FISHERY AGREEMENT

As the Republic of Seychelles has introduced a vessel monitoring system (VMS) applicable to all foreign vessels fishing in Seychelles waters, on a non-discriminatory basis, and has extended VMS surveillance to its own national fleet of the same category, and

Considering that EC fishing vessels are already subject to satellite tracking under the Community legislation since January 2000,

It is recommended that the flag States and the authorities of the Republic of Seychelles implements a satellite monitoring of the EC vessels fishing under the EC/Seychelles Fishery Agreement in accordance with the following conditions:

1. For the purposes of satellite monitoring, the Seychelles authorities shall communicate to the Fisheries Monitoring Centres (FMCs) of the flag States the co-ordinates (latitudes and longitudes) of the Seychelles waters.

The Seychelles authorities will transmit this information in electronic format, expressed in degrees decimal in the Wgs-84 system *datum*.

2. The Seychelles authorities and the national FMCs will exchange information on their respective electronic addresses in X.25 format or where appropriate other secure communication protocol and the specifications to be used in their respective FMCs in accordance with the conditions established in points 4 and 6. This information will include, as far as possible, the names, the telephone, and fax numbers and the electronic addresses (Internet), which can be used for the general communications between the FMCs.
3. The position of the vessels will be determined with a margin of error of less than 500 metres and with a confidence interval of 99%.
4. When a vessel fishing under the EC/Seychelles Agreement and subject to satellite tracking under the Community legislation enters into the Seychelles waters, subsequent position reports shall be communicated by the FMC of the flag State to the Monitoring Centre of Seychelles automatically, in real time, at least every hour (*frequency*). These messages are identified as Position Reports.
5. The messages referred to in item 4 shall be transmitted electronically in X.25 format, or other secure communication protocols subject to prior agreement between the relevant FMCs. All messages will be communicated automatically, in real time, in accordance with the definitions given in Attachment 1.

It is prohibited for a vessel to switch off its satellite tracking device when operating in Seychelles waters.

6. In the event of a technical problem or malfunction of the satellite monitoring device installed on board the fishing vessel, the master of that vessel shall communicate in good time by fax, or e-mail to the FMC of the Flag State concerned the information specified in item 4. At least one global position Report every four hours shall be sufficient under such circumstances as long as the vessel stays in Seychelles waters. This global position Report will include the hourly positions as registered by the master of that vessel during those four hours. The FMC of the flag State or the vessel itself shall forward these messages to the Seychelles Monitoring Centre without delay. In case of necessity or doubts, the Seychelles Fishing Authority (SFA) could ask for a determine vessel a transmission of the position report every hour. Defective equipment shall be repaired or replaced as soon as the vessel concludes its fishing trip or within a month at a maximum. Past this period, a new fishing trip may not begin until the equipment has been repaired or replaced.
7. The Vessel Monitoring System hardware and software components shall be temper proof, i.e. shall not permit the input or output of false positions and must not be capable of being manually over-ridden. The system shall be fully automatic and operational at all times regardless of environmental conditions. It shall be prohibited to destroy, damage, render inoperative or otherwise interfere with the satellite tracking device.

In particular, the master shall ensure that:

- data are not altered in any way;
- the antenna or the antennas connected to the satellite tracking devices are not obstructed in any way; and
- the power supply of the satellite tracking devices is not interrupted in any way.

Any breach of the above-mentioned obligations may render the master liable under the laws and regulations of Seychelles, provided that the vessel is operating in Seychelles waters.

8. The FMCs of the Flag States shall monitor the tracking of their vessels when the latter are in the Seychelles waters, at one hour intervals. If the tracking of the vessels is not carried out under the conditions envisaged, the Seychelles Monitoring Centre is immediately informed and the procedure provided for in item 6 will be applicable.
9. Relevant FMCs and the Seychelles Monitoring Centre shall co-operate to ensure the implementation of these provisions. If the Seychelles Monitoring Centre establishes that the flag State is not transmitting the data in conformity with item 4 above, the other party shall be immediately notified. Upon receipt of notification, the latter shall respond within twenty-four (24) hours by informing the Seychelles Monitoring Centre of the reasons for non-transmission and indicating a reasonable delay for compliance with these provisions. In case of failure to comply within this delay, the two parties will settle such problems in writing or as provided for by point 13 of these provisions.
10. Monitoring data transmitted in accordance with these provisions shall be used exclusively for control, management, monitoring and enforcement by the Seychelles authorities of the Community fleet fishing under the EC/Seychelles fishery agreement These data cannot be communicated to other parties under any circumstances, except with the written consent of the flag State concerned, on a case by case basis, or by an order of the Court in Seychelles.

11. It is agreed that, at the request of either party, there will be an exchange of information on the equipment used for satellite tracking, in order to ensure that the said equipment is fully compatible with the requirements of the other party for the purposes of these provisions.
12. The Parties agree to review these provisions as and when appropriate, including all cases of malfunctioning or anomalies related to individual vessels. All such cases will have to be notified by the SFA to the EC flag Member States at least 15 days before the review meeting.
13. Any dispute concerning the interpretation or the application of these provisions shall be subject to consultation between the Parties within the framework of the Joint Committee provided for in Article 7 of the Agreement between the European Community and the Republic of Seychelles concerning fishing in Seychelles waters.
14. These provisions shall enter into force on 18th January 2005.

Attachment 1

COMMUNICATION OF VMS MESSAGES TO SEYCHELLES

POSITION REPORT

Piece of data	Code	Mandatory/ Optional	Comments
Start record	SR	M	System detail; indicates start of record
Address	AD	M	Message detail; destination Party Alfa-3 ISO country code
From	FR	M	Message detail; the transmitting Party Alfa-3 ISO country code
Type of message	TM	M	Message detail; message type, "POS"
Radio call sign	RC	M	Vessel detail; international radio call sign of the vessel
Internal Reference Number	IR	O	Vessel detail; Unique Party vessel number as Alfa-3 ISO flag country code followed by number
External Registration Number	XR	O	Vessel detail; the side number of the vessel
Latitude	LA	M	Position detail; position of the vessel in degrees and minutes N/S DDMM (WGS-84)
Longitude	LO	M	Position detail; position of the vessel in degrees and minutes E/W DDDMM (Wgs-84)
Speed	SP	M	Position detail; vessel speed in tenths of knots
Course	CO	M	Position detail; vessel course in 360° scale
Date	DA	M	Position detail; UTC date of position (YYYYMMDD)
Time	TI	M	Position detail; UTC time of position (HHMM)
End of record	ER	M	System detail; indicates end of record

Character set: ISO 8859,1

A data transfer is structured in the following way:

- a double oblique bar (//) and a code mark the beginning of the transmission,
- a simple oblique bar (/) marks a separation between the code and the piece of data.

The optional data has to be inserted between the beginning and the end of the recording.

Appendix 5

COMMUNICATION FORMAT REPORTS

1. ENTRY REPORT FORMAT (WITHIN 3 HOURS BEFORE THE EVENT)

(CONTENT)	(TRANSMISSION)
ADDRESSEE	SFA
ACTION CODE	IN
VESSEL NAME	
INTERNATIONAL RADIO CALL SIGN	
POSITION OF ENTRY	
DATE AND HOUR (UTC) OF ENTRY	
QUANTITY (Mt) OF FISH ON BOARD	
YELLOWFIN	(Mt)
BIGEYE TUNA	(Mt)
SKIPJACK	(Mt)
OTHERS (SPECIFY)	(Mt)

2. EXIT REPORT FORMAT (WITHIN 3 HOURS BEFORE THE EVENT)

(CONTENT)	(TRANSMISSION)
ADDRESSEE	SFA
ACTION CODE	OUT
VESSEL NAME	
INTERNATIONAL RADIO CALL SIGN	
POSITION OF ENTRY	
DATE AND HOUR (UTC) OF EXIT	
QUANTITY (Mt) OF FISH ON BOARD	
YELLOWFIN	(Mt)
BIGEYE TUNA	(Mt)
SKIPJACK	(Mt)
OTHERS (SPECIFY)	(Mt)

3. WEEKLY CATCH REPORT FORMAT (EVERY THREE DAYS WHEN THE VESSEL IS OPERATING IN SEYCHELLES WATERS)

(CONTENT)	(TRANSMISSION)
ADDRESSEE	SFA
ACTION CODE	WCRT
VESSEL NAME	
INTERNATIONAL RADIO CALL SIGN	
QUANTITY (Mt) OF FISH ON BOARD	
YELLOWFIN	(Mt)
BIGEYE TUNA	(Mt)
SKIPJACK	(Mt)
OTHERS (SPECIFY)	(Mt)
NUMBER OF SETS MADE SINCE LAST REPORT	

All reports shall be transmitted to the competent authority at on the following fax number or Electronic-mail address: Fax +248 225957 E-mail fmcsc@sfa.sc

Seychelles Fishing Authority, P.O. Box 449, Fishing Port, Mahé, Seychelles