



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.07.2002
COM(2002) 398 final

2002/0162 (CNS)

Proposal for a

COUNCIL REGULATION

on the conclusion of the Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol to the agreement between the European Community and São Tomé and Príncipe expired on 31 May 2002. A new Protocol was initialled by both parties on 14 February 2002 fixing the technical and financial conditions governing the fishing activities of Community vessels in São Tomé and Príncipe waters for the period from 1 June 2002 to 31 May 2005.

The Commission proposes, on this basis, that the Council adopt the conclusion of the new Protocol by Regulation.

A proposal for a Council Decision on the provisional application of the new Protocol pending its definitive entry into force is the subject of a separate procedure.

Proposal for a

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on the conclusion of the Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

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) In accordance with the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé³, the two parties have held negotiations with a view to determining the amendments or additions to be made to the Agreement at the end of the period of application of the Protocol.
- (2) As a result of these negotiations, a new Protocol setting out the fishing opportunities and financial contribution provided for in the above Agreement for the period from 1 June 2002 to 31 May 2005 was initialled on 14 February 2002.
- (3) It is in the Community's interest to approve the said Protocol.
- (4) The allocation of the fishing opportunities among the Member States should be defined as well as their obligations to notify the catches,

¹ OJ C

² OJ C

³ OJ , p.

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe is hereby approved on behalf of the Community.

The text of the Protocol is attached hereto.

Article 2

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

- | | | |
|--|-------------|-----------------------|
| - freezer tuna seiners: | France: 18 | |
| | Spain: 18 | |
| - pole-and-line tuna vessels: | Portugal: 2 | |
| - surface longliners: | Spain: 20 | |
| | Portugal: 5 | |
| - experimental deep-water fishing targeting crab (1 June 2002 to 31 May 2003 only) | Spain: 2 | vessels under 250 GRT |
| | Portugal: 1 | vessel under 250 GRT |

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 Member States whose vessels fish under this Protocol shall notify the Commission of the quantities of each stock caught in the São Tomé and Príncipe fishing zone in accordance with Commission Regulation (EC) No 500/2001⁴.

Article 4

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community.

⁴ OJ L 73, 15.3.2001, p. 8.

Article 5

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

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

Done at Brussels,

For the Council
The President

PROTOCOL

SETTING OUT, FOR THE PERIOD FROM 1 JUNE 2002 TO 31 MAY 2005, THE FISHING OPPORTUNITIES AND THE FINANCIAL CONTRIBUTION PROVIDED FOR BY THE AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE ON FISHING OFF THE COAST OF SÃO TOMÉ AND PRÍNCIPE

Article 1

From 1 June 2002 and for a period of three years, fishing opportunities pursuant to Article 2 of the Agreement shall be as follows:

- freezer tuna seiners: 36 vessels
- pole-and-line tuna vessels: 2 vessels
- surface longliners: 25 vessels

For deep-water fishing vessels targeting crab, provision shall be made for a 12-month period of experimental fishing starting from the provisional date of application of this Protocol (1 June 2002 - 31 May 2003). During this 12-month period, three vessels under 250 GRT may fish simultaneously in São Tomé and Príncipe's exclusive economic zone (EEZ).

Article 2

The financial contribution referred to in Article 6 of the Agreement shall be fixed at:

EUR 925 000 in the first year, comprising EUR 555 000 financial compensation and EUR 370 000 for the measures referred to in Article 4 of this Protocol. The Community shall also provide financing of EUR 50 000, in the first year, for an evaluation study on deep-water crab;

EUR 637 500 in the second year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol;

EUR 637 500 in the third year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol.

For tuna fishing the financial contribution shall cover an annual catch of 8 500 tonnes in São Tomé and Príncipe waters. If the tuna caught each year by Community vessels in São Tomé and Príncipe's exclusive economic zone exceeds this weight, the amount referred to above shall be proportionately increased at the rate of EUR 75 per additional tonne.

The annual financial compensation shall be payable not later than 31 December 2002, and not later than 31 May 2003 and 2004. Its use shall be the sole responsibility of the

Government of the Democratic Republic of São Tomé and Príncipe. It shall be paid to the Public Treasury of São Tomé and Príncipe.

Article 3

The two parties, meeting within the framework of the Joint Committee provided for in Article 8 of the Agreement, shall consult on the basis of the results of the experimental fishing mentioned above and in the light of the best available scientific advice to include, where appropriate, sustainable levels of fishing opportunities for deep-water fishing vessels targeting crab and the financial contribution applicable from the second year of application of the Protocol. These consultations should take place before the end of the first year.

Article 4

1. The measures set out below shall be financed from the financial contribution for the first year, to the amount of EUR 370 000 per year, broken down as follows:
 - (a) scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 50 000,
 - (b) stepping up surveillance, inspection and checks in the fishing zones: EUR 50 000,
 - (c) institutional support to the administrative department responsible for fisheries: EUR 50 000,
 - (d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 40 000,
 - (e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000,
 - (f) aid for small-scale fishing: EUR 145 000.
2. The measures set out below shall be financed from the financial contribution for the second and third years, to the amount of EUR 255 000 per year, broken down as follows:
 - (a) scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 40 000,
 - (b) stepping up surveillance, inspection and checks in the fishing zones: EUR 40 000,

- (c) institutional support to the administrative department responsible for fisheries: EUR 40 000,
- (d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 30 000,
- (e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000,
- (f) aid for small-scale fishing: EUR 70 000.

The measures and the annual amounts allocated thereto shall be decided on by the São Tomé and Príncipe Ministry responsible for fisheries, which shall inform the Commission thereof.

The annual amounts, with the exception of those referred to at (d) and (e), shall be paid into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries and used under the terms of a protocol to be negotiated with the Public Treasury no later than 31 December 2002, 31 May 2003 and 31 May 2004 according to the annual schedule for their use. The amounts referred to at (d) and (e) shall be paid as they are used.

The São Tomé and Príncipe 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 responsible for São Tomé and Príncipe, 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 São Tomé and Príncipe Ministry responsible for fisheries and, following consultation with the São Tomé and Príncipe authorities within the framework of meetings of the Joint Committee provided for in Article 8 of the Agreement, to review the payments concerned in the light of the actual implementation of the measures.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 4, the application of this Protocol may be suspended.

Article 6

A joint scientific meeting shall be held annually to evaluate periodically within the Joint Committee the state of crab resources. Based on the findings, the fishing opportunities laid down in Article 1 of this Protocol and the financial contribution laid down in Article 2 may be adjusted after agreement between the two parties meeting within the framework of the Joint Committee.

Article 7

Should a fundamental change in circumstances prevent fishing in São Tomé and Príncipe's exclusive economic zone, the European Community may suspend payment of the financial contribution following prior consultation, if possible, between the two parties in the Joint Committee.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two parties in the Joint Committee confirming that the situation is likely to allow a return to normal fishing activities.

Article 8

The Annex to the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe is hereby repealed and replaced by the Annex to this Protocol.

Article 9

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 1 June 2002.

ANNEX

CONDITIONS GOVERNING FISHING BY COMMUNITY VESSELS IN THE SÃO TOMÉ AND PRÍNCIPE FISHING ZONE

1. APPLICATION FOR AND ISSUE OF LICENCES

The procedure for applications for, and issue of, the licences referred to in Article 4 of the Agreement shall be as follows.

The relevant Community authorities shall present to the São Tomé and Príncipe Ministry responsible for fisheries, via the Delegation of the European Commission responsible for São Tomé and Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé and Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé and Príncipe authorities within 20 days of submission of the application to the shipowners or their representatives via the Delegation of the European Commission responsible for São Tomé and Príncipe.

Licences shall be issued for specific vessels and shall not be transferable. However, at the request of the European Commission, a vessel's licence may, and where *force majeure* is proved, shall, be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the São Tomé and Príncipe Ministry responsible for fisheries via the Delegation of the European Commission responsible for São Tomé and Príncipe.

The new licence shall indicate:

- the date of issue,
- the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no new one-off payment as laid down in points 2 and 4 shall be due.

The licence must be kept on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé and Príncipe authorities by the European Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the São Tomé and Príncipe authorities responsibilities for fisheries inspection. A copy of the said licence may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board.

2. PROVISIONS APPLICABLE TO TUNA SEINERS, POLE-AND-LINE TUNA VESSELS AND SURFACE LONGLINERS

Licences shall be valid for one year. They shall be renewable.

The fees provided for in Article 4 of the Agreement shall be set at EUR 25 per tonne caught in the São Tomé and Príncipe fishing zone.

The competent authorities of São Tomé and Príncipe shall communicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.

Licences shall be issued following payment into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries to be used under the terms of a protocol to be negotiated with the Public Treasury of a one-off payment of EUR 3 750 per year for each tuna seiner, EUR 625 per year for each pole-and-line tuna vessel, EUR 1 375 per year for each surface longliner of more than 150 GRT and EUR 1000 per year for each surface longliner, equivalent to the fees for:

- 150 t of tuna caught per year in the case of tuna seiners,
- 25 t of tuna caught per year in the case of pole-and-line tuna vessels,
- 55 t of tuna caught per year in the case of surface longliners.

3. STATEMENT OF CATCH AND STATEMENT OF FEES DUE FROM OWNERS OF TUNA SEINERS, POLE-AND-LINE TUNA VESSELS AND SURFACE LONGLINERS

A fishing log in accordance with the ICCAT model in Appendix 2 shall be kept on vessels for each fishing period spent in São Tomé and Príncipe waters. It shall be filled in even when no catches are made.

The words “Outside São Tomé and Príncipe’s EEZ” shall be entered in the abovementioned logbook in respect of periods during which the said vessels are not in São Tomé and Príncipe waters.

The forms, which must be legible and signed by the captains or their representatives, shall be sent within 45 days of the end of fishing activities in São Tomé and Príncipe’s exclusive economic zone to the São Tomé and Príncipe Ministry responsible for fisheries, via the Delegation of the European Commission responsible for São Tomé and Príncipe, and as soon as possible, for processing, to the Institut de Recherche pour le Développement (IRD), the Spanish Oceanographic Institute (IEO) or the Instituto Português de Investigação Marítima (IPIMAR).

If these provisions are not complied with, the São Tomé and Príncipe Ministry responsible for fisheries reserves the right to suspend the licence of the offending vessel until these formalities have been carried out and to apply the penalties provided for under national law. In such cases, the Delegation

of the European Commission responsible for São Tomé and Príncipe shall be informed without delay.

Member States shall inform the European Commission before 31 July each year of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall draw up the statement of fees due in respect of the fishing year, which it shall then send to the São Tomé and Príncipe Ministry responsible for fisheries.

Shipowners shall receive notification of the statement drawn up by the Commission by 30 September at the latest, and shall have 30 days in which to meet their financial obligations. This payment shall be made by the shipowners to an account designated by the São Tomé and Príncipe Ministry responsible for fisheries to be used under the terms of a protocol to be negotiated with the Public Treasury. In cases where the amount payable in respect of actual fishing operations is less than the advance payment, shipowners cannot recover the balance.

4. PROVISIONS APPLICABLE TO DEEP-WATER FISHING VESSELS TARGETING CRAB

(a) Licences issued to deep-water fishing vessels targeting crab shall be valid for three months. They shall be renewable.

(b) The quarterly fee shall be EUR 42 per GRT per vessel.

5. STATEMENT OF CATCH FROM OWNERS OF DEEP-WATER FISHING VESSELS TARGETING CRAB

Deep-water fishing vessels targeting crab authorised to fish in São Tomé and Príncipe's exclusive economic zone under the Agreement shall notify their catch statistics to the São Tomé and Príncipe Ministry responsible for fisheries through the Delegation of the European Commission responsible for São Tomé and Príncipe using the form given in Appendix 3. These statements shall be monthly and must be communicated at least once every quarter.

6. INSPECTION AND MONITORING

Community vessels fishing in the São Tomé and Príncipe fishing zone shall permit and facilitate the boarding and fulfilment of the tasks of São Tomé and Príncipe officials responsible for the inspection and monitoring of fishing activities. These officials should not remain on board any longer than the time required to verify catches by sampling and carry out any other inspections relating to fishing activities.

7. OBSERVERS

At the request of the São Tomé and Príncipe authorities, tuna seiners and surface longliners shall take an observer on board who shall be treated as an officer. Deep-water fishing vessels targeting crab shall systematically take an observer on board. That observer shall be treated as an officer. The time

spent on board by the observer shall be fixed by the São Tomé and Príncipe authorities but, as a general rule, it should not exceed the time required to carry out his duties. Once on board, observers shall:

- observe the fishing activities of the vessels,
- verify the position of vessels engaged in fishing operations,
- perform biological sampling in the context of scientific programmes,
- note the fishing gear used,
- verify the catch data for the São Tomé and Príncipe zone recorded in the logbook.

While on board, observers shall:

- take all appropriate steps to ensure that the conditions under which they are taken on board and their presence on board do not interrupt or hamper fishing activities,
- respect the material and equipment on board and the confidentiality of all documents belonging to the said vessel.
- draw up an activity report to be transmitted to the competent São Tomé and Príncipe authorities and copied to the Delegation of the European Commission responsible for São Tomé and Príncipe. For deep-water vessels targeting crab, this report shall include an interim statement of catches taken in the exclusive economic zone and entered in the logbook. This interim statement must be submitted before the licence is issued for the following period.

The conditions under which observers are taken on board, which should neither interrupt nor hinder the fishing activities, shall be agreed between the shipowner or his agent and the São Tomé and Príncipe authorities.

The shipowner shall, via his agent, make a payment of EUR 10 to the Government of São Tomé and Príncipe for each day spent by an observer on board a tuna seiner, surface longliner or deep-water fishing vessel targeting crab as a contribution to the cost of the observer on board.

If the shipowner is unable to take the observer on board and put him off at a São Tomé and Príncipe port agreed by common accord with that country's authorities, the shipowner shall bear the cost of taking the observer on board and putting him ashore.

If the observer is not present at the time and place agreed and during the 12 hours following the time agreed, the shipowner shall be automatically absolved of his obligation to take the observer on board.

The salary and social contributions of observers shall be borne by the competent São Tomé and Príncipe authorities.

8. FISHING ZONES

The tuna vessels and surface longliners referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters beyond twelve nautical miles from the coast of each island.

The deep-water fishing vessels targeting crab referred to in Article 1 of the Protocol shall be authorised to engage in fishing activities in the waters from the 650 isobath.

Without exception, all fishing activity in the zone destined for joint exploitation by São Tomé and Príncipe and Nigeria, delimited by the coordinates set out in Appendix 4, shall be prohibited.

9. ENTERING AND LEAVING THE ZONE

Vessels shall notify the coastal radio station and the São Tomé and Príncipe Ministry responsible for fisheries of their intention to enter or leave São Tomé and Príncipe's fishing zone at least 24 hours in advance (by telephone +239-12-22091, fax +239-12-22828, or e-mail dpescas1@cstome.net).

When notifying their departure, all vessels shall also notify the estimated catches taken during the time they have spent in São Tomé and Príncipe's fishing zone. This information should preferably be communicated by fax or, for vessels not equipped with fax, by radio.

A vessel found to be fishing without having informed the São Tomé and Príncipe Ministry responsible for fisheries shall be regarded as a vessel without a licence.

Vessels shall also be informed of the fax and telephone numbers and e-mail address when the fishing licence is issued.

The São Tomé and Príncipe Ministry responsible for fisheries and the shipowners shall keep a copy of fax communications or a recording of radio communications until both parties have agreed to the final statement of fees due referred to in point 3.

10. BY-CATCHES

Tuna seiners shall make any by-catches available to the São Tomé and Príncipe Directorate for Fisheries, which will take charge of recovering and landing them.

11. SIGNING-ON OF SEAMEN

At the request of the São Tomé and Príncipe authorities, the tuna seiner fleet shall take on board six São Tomé and Príncipe seamen for the duration of the fishing season. No vessel may take more than one seaman on board.

The conditions of employment and remuneration shall be fixed by mutual agreement between the shipowners and representatives of the seamen.

Should the fleet of tuna seiners not take on board six seamen, shipowners shall be obliged to pay compensation for the seamen not taken on board, the level of which shall be fixed by the two parties and shall correspond to the duration of the fishing season.

That sum shall be used for the training of seamen/fishermen in São Tomé and Príncipe and shall be paid into an account specified by the São Tomé and Príncipe Ministry responsible for fisheries.

12. STANDARDS

The international standards on tuna fishing as recommended by ICCAT shall apply.

13. USE OF SERVICES

Community vessels shall, wherever possible, procure the supplies and services they require in São Tomé and Príncipe ports.

14. PROCEDURES IN THE CASE OF BOARDING

(a) Transmission of information

The São Tomé and Príncipe Ministry responsible for fisheries shall inform the Delegation of the European Commission responsible for São Tomé and Príncipe and the flag State, within 48 hours, of the boarding of any Community fishing vessel fishing under the fisheries agreement in the São Tomé and Príncipe fishing zone and shall transmit a brief report of the circumstances and reasons leading to such boarding. The Delegation of the European Commission responsible for São Tomé and Príncipe and the flag State shall be kept informed of any proceedings initiated and penalties imposed.

(b) Settlement of boarding

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

- either out of court, in which case the amount of the fine shall be determined in accordance with São Tomé and Príncipe legislation laying down minimum and maximum figures,
- or by legal proceedings, if no out-of-court settlement was possible, in accordance with São Tomé and Príncipe law.

(c) The vessel shall be released and its crew authorised to leave the port:

- either as soon as the obligations imposed by the out-of-court procedure have been completed on presentation of the receipt for the settlement, or

- on presentation of proof that a bank security has been lodged, pending completion of the legal proceedings.

15. PROCEDURES IN THE CASE OF PENALTIES

The Delegation of the European Commission responsible for São Tomé and Príncipe shall be informed of any application of penalties involving a fishing vessel flying the flag of a Member State of the Community fishing under the fisheries agreement between the European Economic Community and São Tomé and Príncipe and shall receive a brief report of the circumstances and reasons leading to such penalties.

Appendix 1

DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE
MINISTRY OF AGRICULTURE AND FISHERIES
FISHING LICENCE APPLICATION No

Name of applicant

Name and address of shipowner

Name and address of any representative in São Tomé and Príncipe.....

.....

Name of vessel.....

Type of vessel

Country of registry

Port and registration number.....

Vessel's external identification

Radio call sign and frequency

Length of vessel

Width of vessel

Engine type and horse power

Hold capacity

Minimum number of seamen

Type of fishing.....

Species targeted

.....

Period of validity requested:

‘I certify that this information is correct.

I hereby declare that I know, approve and undertake to comply with the law governing sea fishing in the Democratic Republic of São Tomé and Príncipe and the applicable international law.’”

Date.....

APPLICANT

Appendix 3

DEEP-WATER FISHING VESSELS TARGETING CRAB

Vessel name:	
Nationality (flag):	

Horse power:	
GRT:	

Month	Year
Fishing method:	
Port of unloading:	

Date	Fishing zone		Number of catches	Number of hours fishing	Species of fish							Totals
	Longitude	Latitude										
1)												
2)												
3)												
4)												
5)												
6)												
7)												
8)												
9)												
10)												
11)												
12)												
13)												
14)												
15)												
16)												
17)												
18)												
19)												
20)												
21)												
22)												
23)												
24)												
25)												
26)												
27)												
28)												
29)												
30)												
31)												
		TOTAL										

Appendix 4

LATITUDE				LONGITUDE			
Degrees	Minutes	Seconds		Degrees	Minutes	Seconds	
03	02	22	N	07	07	31	E
02	50	00	N	07	25	52	E
02	42	38	N	07	36	25	E
02	20	59	N	06	52	45	E
01	40	12	N	05	57	54	E
01	09	17	N	04	51	38	E
01	13	15	N	04	41	27	E
01	21	29	N	04	24	14	E
01	31	39	N	04	06	55	E
01	42	50	N	03	50	23	E
01	55	18	N	03	34	33	E
01	58	53	N	03	53	40	E
02	02	59	N	04	15	11	E
02	05	10	N	04	24	56	E
02	10	44	N	04	47	58	E
02	15	53	N	05	06	03	E
02	19	30	N	05	17	11	E
02	22	49	N	05	26	57	E
02	26	21	N	05	36	20	E
02	30	08	N	05	45	22	E
02	33	37	N	05	52	58	E
02	36	38	N	05	59	00	E
02	45	18	N	06	15	57	E
02	50	18	N	06	26	41	E
02	51	29	N	06	29	27	E
02	52	23	N	06	31	46	E
02	54	46	N	06	38	07	E
03	00	24	N	06	56	58	E
03	01	19	N	07	01	07	E
03	01	27	N	07	01	46	E
03	01	44	N	07	03	07	E
03	02	22	N	07	07	31	E

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): External aspects of certain Community policies

Activity(ies): International Fisheries Agreements

TITLE OF OPERATION: PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND THE FINANCIAL CONTRIBUTION PROVIDED FOR BY THE AGREEMENT BETWEEN THE EC AND SÃO TOMÉ AND PRÍNCIPE

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

B78000: International Fisheries Agreements

2. OVERALL FIGURES

2.1 Total allocation for action (Part B): EUR 2.250 million for commitment/payment

2.2 Period of application: 2002-05

2.3 Overall multiannual estimate of expenditure: EUR 2.250 million

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

EUR million (to three decimal places)

	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and subs. years	Total
Commitment appropriations	0.975	0.6375	0.6375	---	---	---	2.250
Payment appropriations	0.975	0.6375	0.6375	---	---	---	2.250

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

Commitments							
Payments							

Subtotal a+b							
Commitments	0.975	0.6375	0.6375	---	---	---	2.250
Payments	0.975	0.6375	0.6375	---	---	---	2.250

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

Commitments/ payments	1.260	1.260	1.260		---	---	3.780
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TOTAL a+b+c							
Commitments	2.235	1.8975	1.8975				6.030
Payments	2.235	1.8975	1.8975				6.030

2.4 Compatibility with financial programming and financial perspective

- Proposal compatible with existing financial programming.
- This proposal will entail reprogramming of the relevant heading in the financial perspective.
- This may require application of the provisions of the Interinstitutional Agreement.

2.5 Financial impact on revenue:

No financial implications (involves technical aspects regarding implementation of a measure)

OR

- Financial impact - the effect on revenue is as follows:

Note: All details and observations pertaining to the method of calculating the effect on revenue should be included in a separate annex.

EUR million (to one decimal place)

Budget line	Revenue	Prior to action (Year n-1)	Situation following action							
			Year <u>n</u>	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 specify 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 form applicant countries	Heading in financial perspective
CE	DA	NO	NO	NO	No [...]

4. LEGAL BASIS

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

São Tomé and Príncipe Agreement (OJ L 54, 25.2.1984, p.1).

5. DESCRIPTION AND GROUNDS

5.1 Need for Community intervention

5.1.1. Objectives pursued

The Protocol to the fisheries agreement between the European Economic Community and the Democratic Republic of São Tomé and Príncipe is due to expire on 31 May 2002. In accordance with the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé, the two parties have held negotiations with a view to determining the amendments or additions to be made to the Agreement on fishing off the coast of São Tomé. The purpose of this renewal is to allow Community shipowners to resume fishing (in particular tuna) in São Tomé's exclusive economic zone (EEZ) and to obtain new fishing opportunities, in particular for deep-water fishing targeting crab, in accordance with the arrangements set out in the Protocol initialled by the Commission, on behalf of the Community, and the São Tomé negotiator at the conclusion of the negotiations which took place at São Tomé on 11 to 14 February 2002.

5.1.2. Measures taken in connection with ex-ante evaluation

The first Protocol, which is due to expire (1999-2002), has been evaluated by the relevant departments of the Commission's Directorate-General for Fisheries.

Total fishing opportunities under the 1999-2002 Protocol covered 36 tuna seiners, 33 surface longliners and 7 pole-and-line tuna vessels.

The evaluation shows that average utilisation in terms of issue of licences was good for tuna seiners (80%) but less than satisfactory for surface longliners (35%) and zero for pole-and-line tuna vessels.

It should be underlined that utilisation in terms of catches was poor: 2 274 tonnes in 1999 and 1 839 tonnes in 2000 (the 2001 figures are not yet available).

This Agreement is an integral part of the network of agreements on tuna covering the Atlantic zone, which allows the Community fleet to follow straddling stocks. When examining figures on catches under the agreement with São Tomé, it should be recalled that São Tomé and Príncipe's exclusive economic zone is also indispensable to the transit of the EU fleet to fish in the waters of neighbouring countries.

It should moreover be taken into account that, 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 São Tomé and Príncipe waters may not, therefore, be known in advance. Tuna catches are sent to processing plants in EU Member States (Spain, Italy, France and Portugal) and to canning factories in certain West African countries (Senegal, Côte d'Ivoire and Ghana), which export much of their production to the Community market.

5.1.3. Measures taken following ex-post evaluation

The September 1999 *ex-post* evaluation on fisheries agreements (French Research Institute for the Exploitation of the Sea [IFREMER]) reached certain conclusions that were taken into account in the negotiations with São Tomé. Hence, for instance, the advance payments by shipowners have been increased, and control procedures for the targeted measures, which represent 40% of the overall financial contribution, have been improved.

5.2 Action envisaged and budget intervention arrangements

The Protocol initialled on 14 February 2002 provides for fishing opportunities for 36 tuna seiners, 25 surface longliners and 2 pole-and-line tuna vessels, a reference weight of 8 500 tonnes and the introduction of a new category of experimental deep-water fishing targeting crab (3 vessels under 250 GRT over 12 months).

Given the new section on possibilities for experimental fishing (which is not negligible), the new Protocol represents an increase in fishing opportunities over the previous Protocol.

Under the new Protocol (2002-05), the Community will pay a total financial contribution of EUR 2 250 000 over three years, as against EUR 1 912 500 for three years under the earlier Protocol.

Of that amount, 40%, i.e. EUR 880 000, will go towards financing targeted measures aiming at developing the São Tomé fisheries sector (financing technical and scientific programmes, fisheries inspection and monitoring, financing grants and training courses, programmes to develop quality control of fishery products, etc). These amounts will be made available to the São Tomé authorities in annual instalments according to the annual programming of their use.

1st year:	EUR 370 000
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2nd year:	EUR 255 000
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3rd year:	EUR 255 000
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The financial compensation, 60%, i.e. EUR 1 370 000, will be paid into an account in the name of the Public Treasury as follows:

1st year:	EUR 555 000 + EUR 50 000 (study)
2nd year:	EUR 382 500
3rd year:	EUR 382 500

The first instalment of these payments must be paid before 31 December 2002.

A number of factors justify the increase in fishing opportunities and in the financial contribution:

1. Member States' interest: since the negotiations with Morocco broke down, the rate of utilisation of other fisheries agreements has increased and the Member States are more interested in finding new fishing opportunities under other agreements. Indeed, most of the vessels which will be using the new opportunities previously operated under the Agreement with Morocco.

2. Tuna section: Because tuna is such a highly migratory species, actual catches taken in a given zone can fluctuate greatly from one fishing year to the next. The catches taken by the Community fleet in the waters of a non-member country cannot therefore be known in advance. Therefore, as in all other tuna agreements, the Community pays a fixed amount which is normally directly proportional to an expected catch weight ("reference weight") calculated on the basis of the average catches recorded during previous years. In the case of São Tomé, it is true that the stated catches have not been satisfactory and that other elements have also been taken into account, for example the strategic interest of the agreement (see 5.1.2) for the Atlantic tuna fleet that operates in the Gulf of Guinea. If the expected catch weight is exceeded, an additional amount in proportion to the excess is paid by the Community. If the expected catch is not taken, the non-member country keeps the amount initially paid.

The unit cost for each tonne of tuna caught is EUR 75 payable by the Community for the reference weight and EUR 25 payable by the shipowners. The commercial value of tuna ranges from EUR 500 to EUR 1 500 per tonne depending on the species.

3. Crab section: The average cost of the Protocol per unit of new experimental demersal fishing opportunities (GRT) is around EUR 383 per GRT, which is cost-effective. This figure should also be compared with the commercial value of crab, EUR 5 000 per tonne. Moreover, the system for expressing trawling opportunities "per month, averaged over the year", will allow for more availability and great flexibility of use.

4. Responsible and sustainable fishing: The fact that the Democratic Republic of São Tomé and Príncipe has decided to use 40% of the financial contribution to finance targeted measures to develop the São Tomé and Príncipe fisheries sector (research, surveillance, etc.) will also help to ensure the continuity of Community fishing.

5. ACP States: The guidelines laid down by the Council for negotiating fisheries agreements with the ACP States specify that account must be taken of the

Community's interest in maintaining or establishing fisheries relations with the countries concerned.

5.3 Methods of implementation

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

6. FINANCIAL IMPACT

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

6.1.1. Financial intervention

Commitments in EUR million (to three decimal places)

Breakdown	Year n	n + 1	n + 2	n + 3	n + 4	n+5 and subs. years	Total
Action 1							
Action 2							
etc.							
TOTAL							

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

	Year n	n + 1	n + 2	n + 3	n + 4	n +5 and subs. 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							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
TOTAL							

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

Commitments in EUR million (to three decimal places)

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 a financial contribution	- fishing for crab: 750 GRT/month averaged over the year	EUR 383/TJB	1) EUR 0.2875 million (1 st year)
		- tuna fishing : 8 500 t	EUR 75/t	2) EUR 0,6375 million/year (3 years)
		- study	EUR 50.000	3) EUR 0.0500 million (1 st year)
TOTAL COST				EUR 2.250 million

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

The requirements for human and administrative resources must be covered from the administering 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	6		6	These human resources represent the entire unit responsible for bilateral agreements.
	B	1	1 AUX A	1	
	C	2	1 AUX C	2	
Other human resources			1 DNE	3	
Total		9	3	12	

7.2 Overall financial impact of human resources

Type of human resources	Amount in EUR	Method of calculation *
Officials Temporary staff	972 000	EUR 108 000 * 9 (title A1, A2, A4, A5, A7)
Other human resources (Budget lines A-7000 and A-7003)	176 892	EUR 42 816 (DNE) + EUR 91 824 (AUX A) + 42 252 (AUX C)
Total	1 148 892	

The amounts are total expenditure for twelve months.

7.3 Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount in EUR	Method of calculation
Overall allocation (Title A7)		
A0701 – Missions	111 000	Mission allocation for 2002 for the unit responsible for bilateral agreements (see point 7.1)
A07030 – Meetings	0	
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	111 000	

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)	EUR 1 259 892
II.	Duration of action	3 years
III.	Total cost of action (I x II)	EUR 3 779 676

It is impossible to quantify the impact of an individual protocol on the work load of the unit in the Directorate-General for Fisheries responsible for this dossier.

Renewing protocols under existing fisheries agreements is one of the unit's activities but does not in itself have a specific impact on administrative expenditure.

If the protocol had not been concluded (initialled), this would equally have resulted in a significant work load and substantial expenditure on visits and meetings.

8. FOLLOW-UP AND EVALUATION

8.1 Follow-up arrangements

Utilisation of the fishing opportunities is under permanent assessment in terms of both licences issued and catches and the value thereof.

The financial compensation and the amounts allocated to targeted measures are to be paid each year into an account in the name of the Public Treasury to be indicated by the São Tomé and Príncipe authorities.

The amounts allocated to financing the targeted measures are to be made available to the São Tomé authorities in annual instalments according to the annual schedule for their use (see Article 4 of the Protocol). The amounts earmarked for financing study grants, training courses and contributions to international fisheries organisations and international meetings concerning fisheries are to be paid as they are used.

The new Article 7 of the Protocol stipulates that if a fundamental change in circumstances prevents fishing the Community may suspend payment of the financial contribution.

A detailed report on implementation of the measures and the results achieved must be submitted to the Commission not later than three months after 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 the Democratic Republic of São Tomé and Príncipe can meet whenever necessary to discuss any matter concerning implementation of the Protocol in a Joint Committee.

8.2 Arrangements and schedule for the planned evaluation

Before the Protocol is renewed in 2005 the entire protocol period (2002-05) will be evaluated, measuring indicators relating to results (catches, values of catches) and impact (number of jobs created and maintained, relation between the cost of the Protocol and the value of catches).

For the targeted measures, please see above.

9. ANTI-FRAUD MEASURES

Since the financial contributions are made by the Community in direct exchange for the fishing opportunities offered, the non-member 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 provided for in Article 4 of the Protocol are subject to an annual report on their implementation and on the results achieved. The Commission reserves the right to request additional information on the results achieved and to assess payments in the light of 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 Protocol also requires Community vessels to fill out catch declarations (which must be transmitted to the Commission and the São Tomé and Príncipe authorities) which then serve as the basis for drawing up the final statement of catches under the Protocol and the corresponding fees.