

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 390 final
Brussels, 16.09.1994
94/0205 (CNS)

Proposal for a
COUNCIL DECISION

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1994 to 19 July 1997

Proposal for a
COUNCIL REGULATION (EC)

94/0205 (CNS)

relating to the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1994 to 19 July 1997

(presented by the Commission)

EXPLANATORY MEMORANDUM

The protocol annexed to the fisheries agreement between EC and the Comores expired on 19.7.1994. A new protocol was initialled by the two parties on 18.7.1994, setting technical and financial terms governing fishing by EC vessels in the Comores waters for the period 20.7.1994 to 19.7.1997.

The Commission proposes on this basis that the Council adopt

- by a Decision, the proposal for an agreement in the form of an exchange of letters on provisional application of the new protocol pending its entry into force
- by a Regulation, the protocol setting fishing rights and the technical and financial terms thereof agreed between the EC and the Comores from the period 20.7.1994 to 19.7.1997.

Proposal for a
COUNCIL DECISION
of

on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol establishing the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1994 to 19 July 1997

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas the Community and the Islamic Federal Republic of the Comoros have held negotiations with a view to determining amendments or additions to be made to the Agreement at the end of the period of application of the first Protocol to the Agreement;

Whereas, as a result of those negotiations, a new Protocol was initialled on 18 July 1994;

Whereas, under that Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Islamic Federal Republic of the Comoros for the period from 20 July 1994 to 19 July 1997;

Whereas, in order to avoid interruption of fishing activities by Community vessels, it is essential that the said Protocol be approved as quickly as possible; whereas both Contracting Parties have therefore initialled an Agreement in the form of an exchange of letters providing for the provisional application of the initialled Protocol from

the day following the date of expiry of the Protocol previously in force; whereas the Agreement in the form of an exchange of letters should be concluded subject to a definitive decision under Article 43 of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1994 to 19 July 1997 is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

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

(1) OJ No L 137, 2. 6. 1988, p. 19.

AGREEMENT

in the form of an Exchange of Letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 20 July 1994 to 19 July 1997

A. Letter from the Government of the Comoros

Sir,

With reference to the Protocol, initialled on 18 July 1994, setting out the fishing opportunities and financial contribution for the period from 20 July 1994 to 19 July 1997, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol provisionally from 20 July 1994 pending its entry into force in accordance with Article 7 thereof, provided that the European Community is prepared to do likewise.

It is understood that, in this case, a first instalment equal to one third of the financial compensation stipulated in Article 2 of the Protocol must be paid before 31 december 1994.

I should be grateful if you would confirm that the European Community is in agreement with the foregoing.

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

*For the Government of the
Islamic Federal Republic of the Comoros*

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 18 July 1994 setting out the fishing opportunities and financial contribution for the period from 20 July 1994 to 19 July 1997, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol provisionally from 20 July 1994, pending its entry into force in accordance with Article 7 thereof, provided that the European Community is prepared to do likewise.

It is understood that, in this case, a first instalment equal to one third of the financial compensation stipulated in Article 2 of the Protocol must be paid before 31 december 1994.

I should be grateful if you would confirm that the European Community is in agreement with the foregoing.’

I have the honour to confirm that the Community is in agreement with the contents of your letter.

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

*For the Council
of the European Union*

5

Proposal for a
COUNCIL REGULATION (EC) No
of

relating to the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period 20 July 1994 to 19 July 1997

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof in conjunction with the first sentence of Article 228 (2) and the first subparagraph of Article 228 (3),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Whereas, in accordance with the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros⁽²⁾, the two Contracting Parties held negotiations with a view to determining amendments or additions to be made to the Agreement at the end of the period of application of the first Protocol to the Agreement;

Whereas, as a result of those negotiations, a new Protocol defining the fishing opportunities and financial contribution provided for in the abovementioned Agreement for the period from 20 July 1994 to 19 July 1997 was initialled on 18 July 1994;

Whereas it is in the Community's interest to approve the said Protocol,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period 20 July 1994 to 19 July 1997 is hereby approved on behalf of the Community.

The text of the Protocol is attached hereto.

Article 2

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

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

Done at Brussels,

For the Council
The President

⁽¹⁾ OJ No C

⁽²⁾ OJ No L 137, 2. 6. 1988, p. 18.

PROTOCOL

setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period 20 July 1994 to 19 July 1997

6

Article 1

1. Pursuant to Article 2 of the Agreement, licences authorizing simultaneous fishing in Comorian waters shall be granted to 37 ocean-going freezer tuna vessels for a period of three years beginning on 20 July 1994.
2. In addition, at the request of the Community, certain authorizations may be granted to other categories of fishing vessel under terms to be defined by the Joint Committee referred to in Article 7 of the Agreement.

Article 2

1. The financial contribution referred to in Article 6 of the Agreement shall be fixed at ECU 675.000 for the period provided for in Article 1 of this Protocol, payable in three equal annual instalments. That amount shall cover an annual catch of 4.500 tonnes of tuna in Comorian waters. If the tuna caught by Community vessels in Comorian waters exceeds that weight, the abovementioned amount shall be increased proportionately.
2. The use to which the contribution is to be put shall fall within the exclusive competence of the Government of the Islamic Federal Republic of the Comoros.

Article 3

1. The Community shall also contribute, during the period referred to in Article 1, to the financing of Comorian scientific or technical programmes (equipment, infrastructure, reinforcement of administrative and training structures in the fishing sector, etc.) designed to improve knowledge of fishery resources in Comorian waters.
2. That contribution shall be ECU 260.000 for the duration of this Protocol.
3. The Comorian authorities shall forward a brief report on the way that amount is used to the Commission staff.
4. The Community's contribution to the scientific or technical programmes shall be paid to an account indicated on each occasion by the Ministry of Production, Rural Development, Industry and the Environment.

Article 4

1. The Contracting Parties hereby agree that improving the skills and knowledge of those concerned with sea fishing is essential to the success of their cooperation. To that end, the Community shall facilitate the entry of Comorian nationals to establishments in its Member States and for that purpose shall make available to them grants for study or practical training courses lasting a maximum of five years in the various scientific, technical and economic fields linked to fishing. The total cost of such grants may not exceed ECU 145.000. The grants may also be used in any country linked to the Community by a cooperation agreement.
2. A part of the amount referred to in paragraph 1, which must not exceed ECU 45 000, may be used, at the request of the Comorian authorities, to cover the costs of participation in international meetings relating to fishing.
3. The amount referred to in paragraph 1 shall be payable as it is used.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 3, the Fishing Agreement may be suspended.

Article 6

The Protocol to the Agreement between the European Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros is hereby repealed and replaced by this Protocol.

Article 7

This Protocol shall enter into force on the date of its signature.
It shall apply from 20 July 1994.

7

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

1. Application for and issue of licences

The procedure for applications for, and issue of, the licences allowing Community vessels to fish in Comorian waters shall be as follows:

- (a) the Commission of the European Communities, through its representative of the Commission in Comoros, shall submit to the Comorian fishing authorities at least 20 days before the date of commencement of the period of validity requested, an application in respect of each vessel wishing to fish under this Agreement, drawn up by the owner. The applications shall be made on the forms provided for that purpose by Comoros, a specimen of which is attached;
- (b) licences are issued to a shipowner for a specific vessel. At the request of the Commission of the European Communities, a licence issued for one vessel may, in a case of *force majeure*, be replaced by a licence issued for another Community vessel;
- (c) the licence shall be delivered by the Comorian authorities to the representative of the Commission of the European Communities in Comoros;
- (d) licences must be held on board at all times;
However, the Comorian authorities shall, upon receipt of notification from the Commission of the European Communities that advance payment has been made, enter the vessel concerned in the list of vessels with authorization to fish, which is sent to the control authority of Comoros. Pending receipt of the original of the licence, a copy of the licence that has been drawn up may be issued by telefax to be held on board the vessel.
- (e) before the entry into force of the Agreement the Comorian authorities shall communicate the arrangements for payment of the licence fees, in particular the details of the bank accounts and the currencies to be used.

2. Validity of licences and payment of fees

- (a) Licences shall be valid for one year. They shall be renewable;
- (b) the licence fee shall be set at 20 ECU/tonne of tuna caught in Comorian waters.

Licences shall be issued following advance payment to Comoros of a lump sum of 1 500 ECU a year for each tuna seiner, equivalent to fees for a catch of 75 tonnes of tuna a year in Comorian waters.

The captain shall complete a fishing form corresponding to the model given in Appendix 2 for each period spent fishing in COMORIAN fishing zone. The form may be replaced during the period of application of the Protocol by another document devised for the same purpose by an international organization responsible for tuna fishing in the Indian Ocean after the agreement of the Joint Committee referred to in Article 7 of the Fisheries Agreement.

The form, which must be legible and signed by the captain of the ship, shall be sent to l'Office de la recherche scientifique et technique d'outre-mer (Office of Overseas Scientific and Technical Research) and El Instituto Oceanográfico Español (Spanish Oceanographical Institute) for processing within one month of the end of each calendar quarter.

Member States shall inform the Commission of the European Communities before 15 April of the tonnages caught during the past year, as confirmed by the scientific institutes. On the basis of those figures the Commission shall establish a breakdown of the fees due in respect of a fishing year which it shall then send to the Comorian authorities for their comments.

Shipowners shall be notified by the Commission of the European Communities of this breakdown by the end of April at the latest and shall have 30 days in which to meet their financial obligations. The shipowner cannot recover the balance in cases where the amount payable in respect of actual fishing operations is less than the advance payment.

3. Observers

At the request of the Comorian authorities tuna vessels shall take on board an observer designated by the authorities in order to check catches made in Comorian waters. Observers shall have all facilities, including parts of the ship and documents, necessary for the performance of their duties. Observers shall not remain on board for longer than the time required to carry out their duties. Observers shall be provided with suitable food and accommodation while on board. Should a tuna vessel with a Comorian observer on board leave Comorian waters, every step shall be taken to ensure that the observer returns to Comoros as soon as possible, at the shipowner's expense.

4. Radio communications

8

Whenever Community vessels enter or leave Comorian waters they must contact the Comorian radio station to notify their position and the quantities of fish on board. The call sign and frequency shall be notified to shipowners when the fishing licence is issued.

In cases where radio communication cannot be used, vessels may use alternative means of communication, such as telefax.

5. Fishing zones

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

These provisions may be reviewed by the Joint Committee referred to in Article 7 of the Agreement.

6. Ownership of rare species

Any coelacanth (*Latimeria chalumnae*) caught by a Community vessel authorized to fish in Comorian waters remains the property of Comoros and must be turned over, without charge, to the port authorities of Moroni or Mutsamudu immediately in the best state possible.

7. Transshipment

Community vessel owners must give consideration to the harbour facilities of Mutsamudu for any transshipment operations.

Appendix 1

LICENCE APPLICATION FORM FOR A FOREIGN FISHING VESSEL

Name of applicant:

Address of applicant:

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

.....

Name and address of representative (agent) in Comoros:

.....

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:

Gross registered tonnage of vessel:

Net registered tonnage of vessel:

Minimum crew:

Type of fishing:

Proposed catch species:

.....

Period of validity requested:

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

Date:

Signature:

FINANCIAL STATEMENT				
		DATE		
1. BUDGET HEADING :B7-800				
2. TITLE : New protocol EC/Comores				
3. LEGAL BASIS : Agreement EC/Comores				
4. AIMS OF PROJECT : Protocole for a period of 3 years				
5. FINANCIAL IMPLICATIONS	PERIOD OF 12 MONTHS	CURRENT FINANCIAL YEAR (94)	FOLLOWING FINANCIAL YEAR (95)	
5.0. EXPENDITURE				
- charged to the EC budget (refunds/intervention)		360.000 ECU (annual average)	360.000 ECU (annual average)	
- national administration				
- other				
5.1. REVENUE				
- own resources of the CE (levies/customs duties)				
- national				
	1994	1995	1996	
5.0.1. ESTIMATED EXPENDITURE	360.000 (annual average)	360.000 (annual average)	360.000 (annual average)	
5.2. METHOD OF CALCULATION:				
- financial contribution :		675.000 ECU		
- scientific programme :		260.000 ECU		
- study grants :		145.000 ECU		
Financial compensation :		1.080.000 ECU		
Average annual cost :		360.000 ECU		
6.0. CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET ?				
				YES/++
6.1. CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET ?				
				YES/++
6.2. IS A SUPPLEMENTARY BUDGET NECESSARY ?				
				+++/NO
6.3. WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY ?				
				YES/++
OBSERVATIONS :				

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DOCUMENTS

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