



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.02.1997
COM(97)43 final

97/0035 (CNS)

Proposal for a
COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters on the provisional application of the Protocol defining, for the period 1 December 1996 to 30 November 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius

Proposal for a
COUNCIL REGULATION (EC)

relating to the conclusion of the Protocol defining, for the period 1 December 1996 to 30 November 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol annexed to the fisheries agreement between the European Community and Mauritius expired on 30.11.1996. A new Protocol was initialled by the two parties on 26.11.96 establishing the technical and financial conditions under which Community fishing vessels can fish in Mauritius waters in the period 1.12.1996 to 30.11.99.

The Commission is accordingly proposing that the Council should adopt:

- by means of a Decision, the draft Agreement in the form of an exchange of letters concerning the provisional application of the new Protocol pending its final entry into force,
- by means of a Regulation, the Protocol establishing the fishing opportunities and the associated technical and financial conditions agreed between the Community and Mauritius for the period 1.12.96 to 30.11.99.

Proposal for a
COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters on the provisional application of the Protocol defining, for the period 1 December 1996 to 30 November 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters ⁽¹⁾,

Having regard to the proposal from the Commission,

Whereas the Community and Mauritius held negotiations to determine the amendments or additions to be made to the Agreement on fishing off Mauritius at the end of the period of application of Protocol;

Whereas, as a result of these negotiations a new Protocol was initialled on 26 November 1996

Whereas, under this Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of Mauritius for the period 1 December 1996 to 30 November 1999

⁽¹⁾ OJ No L 159, 10.6.1989, p. 2.

Whereas, in order to avoid interruption of fishing activities by Community vessels, it is essential that the Protocol in question be approved as quickly as possible; whereas 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 the day following the date of expiry of the Protocols 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 on the provisional application of the Protocol defining, for the period 1 December 1996 to 30 November 1999 the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The 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

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AGREEMENT
IN THE FORM OF AN EXCHANGE OF LETTERS ON THE PROVISIONAL APPLICATION OF THE
PROTOCOL DEFINING, FOR THE PERIOD 1 DECEMBER 1996 TO 30 NOVEMBER 1999, THE
FISHING OPPORTUNITIES AND THE FINANCIAL CONTRIBUTION PROVIDED FOR BY THE
AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE GOVERNMENT OF MAURITIUS
ON FISHING IN THE WATERS OF MAURITIUS

A. LETTER FROM THE GOVERNMENT OF MAURITIUS

With reference to the Protocol, initialled on 26 November 1996, defining the fishing opportunities and the financial contribution for the period 1 December 1996 to 30 November 1999, I have the honour to inform you that the Government of Mauritius is willing to apply the Protocol provisionally from 1 December 1996 pending its entry into force in accordance with Article 6 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment, equal to one third of the financial compensation laid down by Article 2 of the Protocol, must be paid before 31 May 1997.

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 Mauritius

B. LETTER FROM THE COMMUNITY

Sir,

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

"With reference to the Protocol, initialled on 26 November 1996, defining the fishing opportunities and the financial contribution for the period 1 December 1996 to 30 November 1999, I have the honour to inform you that the Government of Mauritius is willing to apply the Protocol provisionally from 1 December 1996 pending its entry into force in accordance with Article 6 thereof, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment, equal to one third of the financial compensation laid down by Article 2 of the Protocol, must be paid before 31 May 1997.

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

Proposal for a
COUNCIL REGULATION (EC)
relating to the conclusion of the Protocol defining, for the period 1 December 1996
to 30 November 1999, the fishing opportunities and the financial contribution
provided for by the Agreement between the European Community
and the Government of Mauritius on fishing in the waters of Mauritius

97/0035 (CNS)

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission ¹,

Having regard to the Opinion of the European Parliament ²,

Whereas, in accordance with the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters ³, the 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 Protocol;

Whereas, as a result of these negotiations, a new Protocol defining, for the period 1 December 1996 to 30 November 1996, the fishing opportunities and the financial contribution provided for by the said Agreement was initialled on 26 November 1996;

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

¹ OJ No C

² Opinion delivered on (not yet published in the Official Journal).

³ OJ No L 159, 10.6.1989, p. 2.

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining, for the period 1 December 1996 to 30 November 1999, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation

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 (1).

Article 3

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

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

Done at Brussels,

For the Council
The President

(1) The date of entry into force of the Protocol will be published in the Official Journal of the European Communities by the General Secretariat of the Council.

PROTOCOL
DEFINING, FOR THE PERIOD 1 DECEMBER 1996 TO 30 NOVEMBER 1999,
THE FISHING OPPORTUNITIES AND THE FINANCIAL CONTRIBUTION PROVIDED
FOR BY THE AGREEMENT BETWEEN
THE EUROPEAN COMMUNITY AND THE GOVERNMENT OF MAURITIUS
ON FISHING IN THE WATERS OF MAURITIUS

ARTICLE 1

1. Pursuant to Article 2 of the Agreement, and for a period of three years from 1 December 1996, the following fishing possibilities shall be accorded:
 - for ocean-going tuna seiners: licences for 43 vessels;
 - for vessels fishing by line (except tuna trollers and tuna surface longliners): licences for 100 GRT/month on an annual average.
2. Furthermore, fishing licences may also be granted for tuna trollers and surface tuna longliners.
3. These fishing possibilities may, at the Community's request, be increased by the Joint Committee referred to in Article 8 of the Agreement.

ARTICLE 2

1. The financial compensation referred to in the Agreement for the abovementioned period is fixed at ECU 1.218.750, payable in three annual instalments.
2. In the case of tuna fishing, this compensation shall cover a catch weight in waters of Mauritius of 7.500 tonnes of tuna fished per year. If the annual amount of tuna caught by Community vessels in the waters of Mauritius exceeds this quantity, the abovementioned compensation shall be increased by ECU 50 for each additional tonne caught.
3. The use to which this compensation is put shall be the sole competence of Mauritius.
4. The financial compensation shall be paid into an account opened at a financial institution or other body designated by Mauritius.

ARTICLE 3

1. The Community shall also pay a contribution of ECU 418.000 towards the financing of scientific and technical programmes (including equipment, infrastructure, etc) in order to improve knowledge of fish stocks and fisheries in general.
2. The competent authorities of Mauritius shall send to the Commission a brief report on the utilization of the funds.
3. The Community's contribution to the scientific and technical programmes shall be paid into an account specified by the authorities of Mauritius.

ARTICLE-4

The two parties hereby agree that an essential condition for the success of their co-operation is that the skills and know-how of persons engaged in sea fishing be improved. To this end, the Community will assist Mauritian nationals in finding places in establishments in its Member States or States with which it has concluded co-operation agreements and will make available an amount of ECU 110.000 for study or practical training awards with a maximum duration of five years in the various scientific, technical and economic subjects relating to fisheries. Of this amount, up to ECU 30 000 may be used, at the request of the Mauritian authorities, to cover the cost of attending international meetings relating to fisheries.

ARTICLE 5

Should the Community fail to make the payments specified in Articles 2 and 3, the Agreement on fishing may be suspended.

ARTICLE 6

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

ARTICLE 7

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

It shall apply from 1 December 1996.

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

1. Licence application and issuing formalities

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

- a) The Commission of the European Communities shall present to the authorities of Mauritius via the representative of the Commission of the European Communities in Mauritius an application, made by the shipowner, for each vessel that wishes to fish under this Agreement, at least 20 days before the date of commencement of the period of validity requested. The application shall be made on the forms provided for that purpose by Mauritius, a specimen of which is annexed hereto.
- b) Every licence shall be issued to the shipowner for one designated vessel. At the request of the Commission of the European Communities the licence for a vessel may and, in cases of force majeure, shall be replaced by a licence for another Community vessel.
- c) The licences shall be delivered by the authorities of Mauritius to the representative of the Commission of the European Communities in Mauritius.
- d) The licence document must be held on board at all times. However, on receipt of the notification of the advance payment sent by the Commission of the European Communities to the Mauritian authorities, the vessel will be included on a list, to be notified to the Mauritian fisheries control authorities. Whilst awaiting receipt of the licence document, a fax copy of this licence document may be obtained and shall be kept on board, which will authorize the vessel to fish, pending delivery on board of the licence document.
- e) The authorities of Mauritius shall communicate before the date of entry into force of the agreement the arrangements for payments of the licence fees, and in particular the details of the bank account and the currency to be used.

2. Validity of licences and payment provisions for tuna vessels

- a) Licences shall be valid for a period of one year. They are renewable.
- b) For tuna seiners, the fees shall be set at ECU 20 per tonne caught within the waters of Mauritius. Applications for licences for tuna vessels shall be issued following advance payment to Mauritius of a lump sum of ECU 1 000 a year for each tuna seiner, equivalent to the fees for 50 tonnes of tuna caught within the waters of Mauritius per year.

- c) For small tuna trollers and surface tuna longliners mentioned in Article 1 of the Protocol, the licence fee is fixed at ECU 20 per tonne caught in Mauritian waters. The licences shall be issued following advance payment to Mauritius of a lump sum of ECU 500 per year per vessel, equivalent to the fees due for 25 tonnes of tuna caught in Mauritian waters per year.
- d) A provisional statement of the fees due for the fishing year shall be drawn up by the Commission of the European Communities at the end of each calendar year on the basis of the catch statements made by the shipowners and forwarded simultaneously to the authorities of Mauritius and the Commission of the European Communities. The corresponding amount shall be paid by the shipowners to the Treasury of Mauritius no later than 31 March of the following year. The final statement of the fees due in respect of a fishing year shall be drawn up by the Commission of the European Communities, taking into account available scientific opinion and any statistical data which can be gathered by ORSTOM, the Spanish Oceanographic Institute and any international fishing organizations in the Indian Ocean. The shipowners shall be notified by the Commission of the European Communities of the statement and shall have 30 days in which to meet their financial obligations. If the amount of the sum due for actual fishing operations is less than the advance payment, the corresponding outstanding sum shall not be recoverable by the shipowner.

3. Validity of licences and payment provisions for other vessels.

For vessels fishing by line (except tuna trollers and tuna surface longliners), licences shall be valid for three, six or twelve months. The annual fees shall be fixed in relation to the GRT as follows: ECU 60 per GRT pro rata temporis.

4. Observers

All vessels above 50 GRT shall, at the request of the authorities of Mauritius, take on board an observer designated by these authorities in order to check catches made in the waters of Mauritius. Observers shall have all facilities necessary for the performance of this duty including access to places and documents. An observer must not be present for longer than the time required to fulfil his duties. They shall be provided with suitable food and accommodation while on board. Should a vessel with a Mauritian observer on board leave the waters of Mauritius, every step will be taken to ensure that the observer returns to Mauritius as soon as possible, at the shipowner's expense.

5. Radio communication and reporting

Vessels above 50 GRT shall communicate, when entering and leaving Mauritian waters, and, every three days, while fishing in Mauritian waters, to a radio station (the name, call sign and frequency of which shall be specified in the licence) or by fax (No 230-208-1929), their position and the volume of catches on board.

The captains of all vessels including vessels fishing by line shall complete a fishing report form which will indicate the date, the vessel's position, and the quantity and species of fish caught. Tuna vessels shall also provide the number of sets and the quantity of tuna caught per species. These forms shall be forwarded to the Authorities

of Mauritius not later than three weeks after each fishing campaign. However, in the case of vessels fishing by line, tuna trollers and tuna surface longliners, these reports shall be sent not later than one month after the end of each quarter.

6. Fishing zones

Tuna seiners, tuna trollers and tuna surface longliners may fish in the waters of Mauritius except within a distance of 12 nautical miles measured from the baseline. Vessels fishing by line are only authorized to fish in their traditional grounds, namely Soudan Bank and East Soudan Bank.

7. Supply to the Tuna Canning Industry

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

APPLICATION FOR A FOREIGN FISHING VESSEL LICENCE

Name of applicant:
Address of applicant:
Name and address of charterers of vessel if different from above:
Name and address of agent in Mauritius (if any):
Name of vessel:
Type of vessel:
Country of registry:
Port and registration number:
Fishing vessel external identification:
Radio call sign and frequency:
Fax number of vessel:
Length of vessel:
Width of vessel:
Engine type and power:
Gross registered tonnage of vessel:
Net registered tonnage of vessel:
Minimum crew complement:
Type of fishing practised:
Proposed species of fish:
.....
.....
Period of validity requested:

I certify that the above particulars are correct.

Date Signature

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FINANCIAL STATEMENT

1. **TITLE OF OPERATION:** New financial Protocol EC/Mauritius
2. **BUDGET HEADING INVOLVED:** B7-800
3. **LEGAL BASIS:** Treaty art.43, in conjunction with art.228(2) and (3) first subpar.
EC/Mauritius Agreement (OJ No L 159, 10.6.89)

4. **DESCRIPTION OF OPERATION**

4.1 General objective: Protocol and Annex for a 3-year period

4.2 Period covered and arrangements for renewal or extension:

1 December 1996 to 30 November 1999

Arrangements for renewal by negotiations before the Protocol expires.

5. **Classification of expenditure or revenue**

5.1 Compulsory

5.2 Differentiated

6. **Type of expenditure or revenue**

- *Other:* Financial compensation to a third country in exchange for fishing opportunities granted by it and laid down in the Protocol.

7. **FINANCIAL IMPACT**

7.1 Method of calculating total cost of operation (definition of unit costs)

see complement to the Protocol

7.2 Itemised breakdown of cost

Breakdown	1997	1997	1998	TOTAL
protoc.art.2	406.250	406.250	406.250	1.218.750
protoc.art.3	418.000			418.000
protoc.art.4	110.000			110.000
TOTAL	934.250	406.250	406.250	1.746.750

current ECUs

7.3 Schedule for proposed new operation

current ECUs					
	1997	1997	1998		TOTAL
Commitment appropriations	934.250	406.250	406.250		1.746.750
Payment appropriations					
1997	934.250				934.250
1997		406.250			406.250
1998			406.250		406.250
TOTAL	934.250	406.250	406.250		1.746.750

8. **FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN:**

Since the financial contributions are made by the Community in direct exchange for the fishing possibilities offered, the third country uses them for whatever end it chooses. The exception to this rule is the case of programmes, such as the scientific programmes, where under the dispositions of the Agreement, Mauritania will furnish reports to the Community.

In addition, the Member States whose vessels operate under this Agreement must certify to the Commission the exactitude of the data indicated in the tonnage certificates of the vessels so that the licence fees may be calculated on a guaranteed basis. To that end, the Agreement includes catch declarations for Community vessels.

9. **ELEMENTS OF COST-EFFECTIVENESS ANALYSIS:**

In terms of the benefits of this agreement, it is clear that the value of the catches of the main commercial species far exceeds the cost of 1.75 MECU.

In addition to the direct commercial value of the catches of the vessels concerned, there are the following evident benefits from this Agreement:

- guaranteed employment aboard the fishing vessels;
- multiplier employment effect in the ports, auctions rooms, processing factories, shipyards, service industries, etc.;
- these employment opportunities are in regions where no other opportunities are available;
- contribution to the supply of fish to the Community.

Obviously, in addition to those benefits, one must take account of the importance of our relations with Mauritius in the fisheries field and our overall political relations.

10. **ADMINISTRATIVE EXPENDITURE (part A of the budget):**

No incidence on administrative expenditure.

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