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Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles - Protocol on the fishing rights and financial compensation provided for in the Agreement between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

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AGREEMENT

between the European Economic Community and the Republic of Seychelles on fishing off Seychelles

THE EUROPEAN ECONOMIC COMMUNITY,

hereinafter referred to as the 'Community', and

THE REPUBLIC OF SEYCHELLES,

hereinafter referred to as 'Seychelles',

CONSIDERING the spirit of cooperation resulting from the ACP-EEC Convention and the good cooperation relations which exist between the Community and Seychelles;

CONSIDERING the wish of Seychelles to promote the rational exploitation of its fishery resources by means of intensified cooperation;

RECALLING that, in particular in respect of sea fishing, Seychelles exercises its sovereignty or jurisdiction over a zone extending up to 200 nautical miles from its coast;

TAKING INTO ACCOUNT the signature by both Parties of the United Nations Convention on the Law of the Sea;

DETERMINED to conduct their relations in a spirit of mutual trust and respect for each other's interest in the sphere of sea fishing;

DESIROUS of establishing the terms and conditions governing activities of common interest to both parties,

HAVE AGREED AS FOLLOWS:

Article 1

The purpose of this Agreement is to establish the principles and rules which will in future govern, in all respects, the fishing activities of vessels flying the flags of Member States of the Community, hereinafter referred to as 'Community vessels', in the waters over which the Seychelles has sovereignty or jurisdiction in respect of fisheries in accordance with the provisions of the United Nations Convention on the Law of the Sea and other rules of international law and practice, hereinafter referred to as 'Seychelles' waters'.

Article 2

1. The Seychelles shall permit fishing by Community vessels in Seychelles' waters in accordance with this Agreement.

2. The fishing activities under this Agreement shall be subject to the laws of Seychelles.

Article 3

1. The Community undertakes to take all necessary steps to ensure that Community vessels observe the provisions of this Agreement and the laws relating to fishing in Seychelles' waters consistent with the provisions of the United Nations Convention on the Law of the Sea and other rules of international law and practice.

2. The authorities of Seychelles shall notify the Commission of the European Communities of any proposed change to the said laws.

Article 4

1. Fishing activities in Seychelles' waters may be carried out by Community vessels only pursuant to a licence issued by the authorities of Seychelles at the Community's request.

2. The issue of a licence shall be subject to payment of the licence fees by the shipowners concerned.
3. The formalities for making applications for licences, the amount of the fee and the methods of payment shall be as specified in Annex I.

Article 5

The Parties undertake to coordinate action, either directly or within international organizations, to ensure the management and conservation of the living resources in the Indian Ocean, and particularly in respect of highly migratory species, and to facilitate the relevant scientific research. Article 6
In return for the fishing opportunities accorded under Article 2, the Community shall pay a financial contribution to Seychelles in accordance with the provisions for the payment and compensation referred to in Articles 2 and 3 of the Protocol attached to this Agreement, without prejudice to the financing for which Seychelles is eligible under the ACP-EEC Convention.

Article 7

1. Without prejudice to the exercise by Seychelles of sovereignty or jurisdiction over Seychelles' waters, the Parties agree to consult on questions relating to the implementation and proper functioning of this Agreement. To this effect a Joint Committee is hereby established. The Committee shall meet at the request of either Contracting Party.
2. In the event of a dispute concerning the interpretation or application of this Agreement, such dispute shall be the subject of consultation between the Parties.
3. If no settlement is reached following such consultations, and where it is claimed that a Party has manifestly failed to comply with specific provisions or conditions established by this Agreement, the dispute shall be the subject of arbitration under the conditions laid down in Annex II.

Article 8

Nothing in this Agreement shall affect or prejudice in any manner the view of either Party with respect to any matter relating to the Law of the Sea.

Article 9

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Republic of Seychelles.

Article 10

The Annexes and the Protocol attached to this Agreement form an integral part of this Agreement and, unless otherwise specified, a reference to this Agreement shall constitute a reference to them.

Article 11

Should the authorities of Seychelles decide, as a result of developments in the state of stocks, to take conservation measures which affect the activities of Community vessels, consultations shall be held between the Parties in order to adapt Annex I, Annex III and the Protocol.

Article 12

This Agreement shall be concluded for an initial period of three years from the date of its entry into force. Unless one of the Parties terminates it by giving notice to that effect six months before the date of expiry of the three-year period, it shall remain in force for further periods of two years unless denounced by notice given at least three months before the date of expiry of each such two-year period. At the end of the three-year period, and thereafter at the end of each two-year period, the Contracting Parties shall enter into negotiations to determine by common agreement what amendments or additions to the Annexes or Protocol are required. Should a Contracting Party give notice denouncing the Agreement, the Contracting Parties shall enter into negotiations.

Article 13

This Agreement shall enter into force on the date of signature.

Article 14

This Agreement, drawn up in duplicate in the Danish, Dutch, English, French, Greek, German, Italian, Portuguese and Spanish languages, each of these being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities, which shall transmit a certified copy of each to the Contracting Parties.

ANNEX I

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

1. Licence application and issuing formalities

The procedure for applications for and issue of licences enabling Community vessels to fish in Seychelles' waters shall be as follows:

- (a) The Commission of the European Communities shall present to the Seychelles Fishing Authority, via the representative of the Commission of the European Communities in the Seychelles, an application for each vessel, made by the shipowner, 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 the Seychelles, a specimen of which is annexed hereto.
- (b) Every licence is 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, will be, replaced by a licence for another Community vessel.
- (c) The licences are delivered by the authorities of the Seychelles to the shipowner, or their representatives or agents. The representative of the Commission of the European Communities in the Seychelles shall be notified of the licences delivered by the Seychelles Fishing Authority.
- (d) The licence document must be held on board at all times.
- (e) The authorities of the Seychelles shall communicate, before the date of entry into force of the agreement, the arrangements for payment of the licence fees, and in particular the details of the bank accounts and the currencies to be used.

2. Validity of licences and payment

- (a) The licence shall be valid for a period of one year. Licences are renewable.
- (b) As far as tuna vessels are concerned, the fees shall be set at 20 ECU per tonne caught within Seychelles' waters. Applications for licences for tuna vessels shall be issued following advance payment to Seychelles of a lump sum of 5 000 ECU a year for each tuna seiner, equivalent to the fees for 250 tonnes of tuna caught within the Seychelles' waters per year. 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 Seychelles authorities and the Commission of the European Communities. The corresponding amount shall be paid by the shipowners to the Seychelles' Treasury 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, particularly of the FAO, ORSTOM and the Spanish Institute of Oceanography (IEO) experts established in Seychelles, and any statistical data which can be gathered by an international fishing organization 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 does not equal the advance payment, the corresponding outstanding sum shall not be recoverable by the shipowner.
- (c) As far as vessels other than tuna vessels are concerned, the fees shall be fixed in relation to the GRT of the vessel.

3. Observers

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

4. Employment of fishermen

Each tuna vessel shall take on board at least two Seychellois fishermen designated by the Seychelles' authorities, in agreement with the shipowners, during its fishing campaign. The employment contracts of the fishermen shall be drawn up in Victoria between the shipowner's representatives and the fishermen in agreement with the Seychelles Fishing Authority. This contract shall cover the social security arrangements applicable to the fishermen, including life, accident and sickness insurance.

5. Landing

Tuna vessels landing in the port of Victoria will endeavour to make their by-catches available to the Seychellois authorities at the local market prices. Moreover, Community tuna vessels shall participate in securing the need of the Seychellois tuna canning industry at a price to be fixed in common agreement between the Community shipowners and the Seychelles Fishing Authority on the bases of current international prices. The amount must be paid in convertible currency. The programme of landings shall be determined in common agreement between the Community shipowners and the Seychelles Fishing Authority. In case of landings or transhipments, the shipowners will deliver to the Seychelles Fishing Authority fish they do not retain on board.

6. Radio communications

While they are engaged in fishing activities in the Seychelles' waters, vessels shall communicate to the Seychelles' authorities via Victoria radio station every three days their position and catches and, at the end of each trip, the result of their catches.

7. Fishing zones

To avoid any adverse effects on small scale fisheries in Seychelles' waters, fishing by Community tuna vessels shall not be authorized in the zones defined in Annex III, nor within three miles around any fish-aggregating devices placed by Seychelles authorities, the geographical positions of which have been communicated to the shipowners' representative or agent.

8. 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 will lay down, in agreement with the shipowners, the conditions for using port equipment and, if necessary, supplies and services.

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:

ANNEX II

1. Within two months of the date on which either Party has formally requested that a dispute be submitted to arbitration in accordance with Article 7 (3) of the Agreement, each Party shall appoint one member of the arbitral tribunal and these two members shall, within three months of the same date, agree upon a national of a third State, not being a national of either Party, as third member to be appointed by the two Parties.

2. The Party requesting arbitration shall, at the time of treating the request, submit a statement of its claim and the grounds on which such claim is based.

3. If the periods specified in paragraph 1 have not been observed, or if the parties fail to agree upon a national of a third State as provided in paragraph 1, either Party may, in the absence of any other relevant arrangement, invite the Secretary General of the United Nations to make the necessary appointments.

4. The arbitral tribunal shall, on the basis of the present Agreement and of other rules of international law, reach its decisions by a majority of votes. Such decisions shall be binding. Although the cost of the arbitral tribunal shall normally be borne in equal parts by both Parties, the arbitral tribunal is empowered to rule otherwise concerning costs. In all other respects, the arbitral tribunal shall determine its own procedures.

ANNEX III

ZONES WHERE FISHING BY FOREIGN VESSELS IS PROHIBITED

Zone 1: Comprising an area around Mahé Island and Seychelles Bank with the boundary running as follows:

from point 1 (latitude 5° 22 0S and longitude 57° 23 0E) to point 2 (latitude 3° 40 0S and longitude 56° 06 9E) to point 3 (latitude 3° 30 0S and longitude 55° 11 0E) to point 4 (latitude 3° 55 0S and longitude 54° 23 0E) to point 5 (latitude 4° 44 0S and longitude 53° 47 0E) to point 6 (latitude 5° 38 0S and longitude 56° 08 0E) to point 7 (latitude 6° 34 04S and longitude 56°02 0E) to point 8 (latitude 6° 34 0S and longitude 56° 23 0E) and back to point 1, the point of commencement.

Zone 2: Comprising an area around Platte Island with the boundary running as follows:

from point 1 (latitude 6°06 3S and longitude 55° 35 6E) to point 2 (latitude 5° 39 0S and longitude 55° 35 6E) to Point 3 (latitude 5° 39 0S and longitude 55° 10 0E) to point 4 (latitude 6° 06 3S and longitude 55° 10 0E) and back to point 1, the point of commencement.

Zone 3: Comprising an area around Coetivy Island with the boundary running as follows:

from point 1 (latitude 7° 23 0S and longitude 56° 25 0E) to point 2 (latitude 6° 53 0S and longitude 56° 35 0E) to point 3 (latitude 6° 53 0S and longitude 56° 06 0E) to point 4 (latitude 7° 23 0S and longitude 55° 56 0E) and back to point 1, the point of commencement.

Zone 4: Comprising an area around the Fortune Bank with the boundary running as follows:

from point 1 (latitude 7° 35 0S and longitude 57° 13 0E) to point 2 (latitude 7° 01 0S and longitude 56° 56 0E) to point 3 (latitude 7° 01 0S and longitude 56° 45 0E) to point 4 (latitude 7° 16 0S and longitude 56° 40 0E) to point 5 (latitude 7° 35 0S and longitude 56° 49 0E) and back to point 1, the point of commencement.

Zone 5: Comprising an area around the Amirantes Islands, with the boundary running as follows:

from point 1 (latitude 5° 45 0S and longitude 53° 55 0E) to point 2 (latitude 4° 41 0S and longitude 53° 35 6E) to point 3 (latitude 4° 41 0S and longitude 53° 13 0E) to point 4 (latitude 6° 09 0S and longitude 52° 36 0E) to point 5 (latitude 6° 33 0S and longitude 53° 06 0E) and back to point 1, the point of commencement.

Zone 6: Comprising an area around Alphonse Island with the boundary running as follows:

from point 1 (latitude 7° 21 5S and longitude 52° 56 5E) to point 2 (latitude 6° 48 0S and longitude 52° 56 5E) to point 3 (latitude 6° 48 0S and longitude 52° 32 0E) to point 4 (latitude 7° 21 5S and longitude 52° 32 0E) and back to point 1, the point of commencement.

Zone 7: Comprising an area around the Islands of Providence, Farquhar, Saint Pierre and Wizard Reef with the boundary running as follows:

from point 1 (latitude 10° 20 0S and longitude 51° 29 0E) to point 2 (latitude 8° 39 0S and longitude 51° 12 0E) to point 3 (latitude 9° 04 0S and longitude 50° 28 0E) to point 4 (latitude 10° 30 0S and longitude 50° 46 0E) and back to point 1, the point of commencement.

Zone 8: Comprising an area around Cosmoledo and Astove Islands with the boundary running as follows:

from point 1 (latitude 10° 18 0S and longitude 48° 02 0E) to point 2 (latitude 9° 34 0S and longitude 47° 49 0E) to point 3 (latitude 9° 23 0S and longitude 47° 34 0E) to point 4 (latitude 9° 39 0S and longitude 47° 14 0E) to point 5 (latitude 10 18 0S and longitude 47° 36 0E) and back to point 1, the point of commencement. Zone 9: Comprising an area around Aldabra and Assumption Islands with the boundary running as follows:

from point 1 (latitude 9° 54 0S and longitude 46° 44 0E) to point 2 (latitude 9° 10 0S and longitude 46° 44 0E) to point 3 (latitude 9° 10 0S and longitude 46° 01 0E) to point 4 (latitude 9° 59 0S and longitude 46° 01 0E) and back to point 1, the point of commencement.

The areas of the zones described in this schedule are shown delineated by red lines on charts

ML/ADN/73A and ML/ADN/73B deposited in the office of the Chief Surveyor

PROTOCOL

on the fishing rights and financial compensation provided for in the Agreement between the

European Economic Community and the Republic of Seychelles on fishing off Seychelles

Article 1

1. Pursuant to Article 2 of the Agreement and for the period 18 January 1987 to 17 January 1990, licences to fish simultaneously in Seychelles waters shall be granted to 40 ocean-going tuna vessels.
2. In addition, and at the request of the Community, certain authorizations may be granted for other categories of fishing vessels on terms to be established within the Joint Committee referred to in Article 7 of the Agreement.

Article 2

1. The Community shall pay a contribution towards the financing of a scientific and technical programme in Seychelles to gain greater knowledge of fish stocks in the region of the Indian Ocean surrounding the Seychelles Islands, particularly in respect of highly migratory species.
2. This payment shall be fixed at 750 000 ECU for the duration of this Protocol and at least 50 percent of it shall be paid before 31 December 1987.

Article 3

Pending the availability of more extensive knowledge in respect of the fishery resources of the Seychelles waters and without prejudice to future arrangements, the financial compensation referred to in Article 6 of the Agreement shall be subject to the following rules:

The amount of the financial compensation referred to in Article 6 of the Agreement shall be fixed at a flat rate of at least six million (6 000 000) ECU for the duration of this Protocol, payable in three equal annual instalments. This quantity shall cover the fishing activities referred to in Article 1. In the case of tuna fishing, the amount shall cover a catch weight in Seychelles' waters of 40 000 tonnes of tuna fished per year. If the quantity of tuna caught by Community vessels in Seychelles' waters exceeds this quantity, the abovementioned amount shall be increased accordingly; however, irrespective of the amount actually caught, the ceiling for financial compensation in any one year shall be fixed at two million two hundred thousand (2 200 000) ECU