EUROPEAN
COMMISSION

Brussels, 9.7.2025
COM(2025) 369 final

ANNEX

ANNEX

to the

proposal for a COUNCIL DECISION

on the signing, on behalf of the Union, and provisional application of the Protocol (2025–2029) on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community

ANNEX
PROTOCOL ON THE IMPLEMENTATION OF THE FISHERIES PARTNERSHIP AGREEMENT BETWEEN THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE AND THE EUROPEAN COMMUNITY

CONSIDERING the close cooperation between the Parties, particularly in the context of relations between the Organisation of African, Caribbean and Pacific States (OACPS) and the Union, and their mutual desire to intensify that relationship,

CONSIDERING the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community,

The Parties to this Protocol hereby agree as follows:

Article 1
Definitions applicable to this Protocol

For the purposes of this Protocol, the definitions laid down in Article 2 of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community[1], hereinafter referred to collectively as 'the Parties', apply. In addition, the following definitions apply:

'Agreement' means the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community;

'Samoa Agreement' means the Partnership Agreement between the Members of the Organisation of African, Caribbean and Pacific States, of the one part, and the Union and its Member States, of the other part[2];

'Union authorities' means the European Commission, where appropriate through the Union delegation with responsibility for São Tomé and Príncipe, equivalent to the term 'Community authorities' as defined in Article 2 of the Agreement;

'São Tomé and Príncipe authorities' means the ministry responsible for fisheries;

'sectoral support' means Union financial support for the implementation of São Tomé and Príncipe's sectoral fisheries and aquaculture policy;

'catches' means marine aquatic species caught by fishing gear deployed by a fishing vessel;

'landing' means the unloading on land of any quantity of fishery products from a fishing vessel;

'delegation' means the Union delegation with responsibility for São Tomé and Príncipe;

'fish aggregating devices' means artificial or natural objects floating on the surface which attract various species to gather underneath them, thereby increasing the catchability of those species;

'São Tomé and Príncipe's legislation' means São Tomé and Príncipe's legislation on fishing activities;

'fishing authorisation' means an administrative authorisation issued by the São Tomé and Príncipe authorities to an operator in respect of a Union vessel, entitling that operator to carry out fishing operations in São Tomé and Príncipe's fishing zone for a specified period; this term is equivalent to the term 'fishing permit' as defined in São Tomé and Príncipe's legislation;

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1 OJ L 205, 7.8.2007, p. 36, ELI: http://data.europa.eu/eli/agree_internation/2007/894/oj.

2 OJ L 2862, 28.12.2023, ELI: http://data.europa.eu/eli/agree_internation/2023/2862/oj.

‘Union vessel’ means a fishing vessel flying the flag of a Member State of the Union and registered in the Union;

‘support vessel’ means a vessel, other than a craft carried on board, which is not equipped with operational fishing gear designed to catch or attract fish and which facilitates, assists or prepares fishing operations;

‘observer’ means any person authorised by a national authority, in accordance with the Annex, to observe the implementation of the rules applicable to fishing operations, or to observe those operations for scientific purposes;

‘operator’ means any natural or legal person who operates or holds an undertaking carrying out an activity related to any stage of the production, processing, marketing, distribution and retail chains for fishery and aquaculture products;

‘fishing operation’ means all activities in connection with searching for fish, the shooting, towing and hauling of active gears, the setting, soaking, removing or resetting of passive gears and the removal of any catch from the gear, from keep nets, or from a transport cage to fattening and farming cages;

‘sustainable fishing’ means fishing in accordance with the objectives and principles laid down by the Code of Conduct for Responsible Fisheries adopted at the United Nations Food and Agriculture Organization (FAO) Conference in 1995;

‘fisher’ means any person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers; ACP seafarers as defined in the Agreement must be considered fishers within the meaning of this definition;

‘fishing opportunities’ means a quantified legal entitlement to fish, expressed in terms of catches or fishing effort;

‘Protocol’ means this Protocol implementing the Agreement, and the Annex and appendices hereto;

‘São Tomé and Príncipe’ means the Democratic Republic of São Tomé and Príncipe;

‘discards’ means catches not retained on board;

‘transhipment’ means the direct transfer of any quantity of fish retained on board a vessel to another vessel, irrespective of where the manoeuvre takes place, without the fish being recorded as having been landed;

‘the Union’ means the European Union, which replaces and succeeds the European Community.

Article 2
Objective

The objective of this Protocol is to implement the Agreement, notably by specifying the conditions governing access by Union vessels to São Tomé and Príncipe’s fishing zone and setting out the provisions regarding the sustainable fisheries partnership.

Article 3
Relationship between this Protocol and the Agreement

This Protocol shall be interpreted and applied in the context of, and in a manner consistent with, the Agreement.

Article 4
Principles

1. The Parties undertake to promote responsible fishing in São Tomé and Príncipe's fishing zone on the basis of the principle of non-discrimination. São Tomé and Príncipe undertakes to apply the same technical and conservation measures to all foreign industrial tuna fleets operating in its fishing zone, with the aim of contributing to good fisheries governance.

2. The Parties undertake to ensure that this Protocol is implemented in accordance with Articles 8 and 9 of the Samoa Agreement.

3. They undertake to promote the sustainable development and sound management of natural resources. They shall endeavour to encourage the creation of added value in São Tomé and Príncipe through industries in the sustainable fisheries sector and related activities.

4. The Parties undertake to publish and exchange information on any agreement allowing foreign vessels access to their fishing zone and on the resulting fishing effort, the number of authorisations issued and the catches made.

5. With respect to straddling or highly migratory fish stocks, the Parties shall take due account of scientific assessments conducted at regional level, as well as conservation and management measures adopted by relevant regional fisheries management organisations (RFMOs), to determine the resources available for access.

6. The employment and work conditions of fishers on board Union vessels must not be contrary to the instruments applicable to fishers of the International Labour Organization (ILO) and the International Maritime Organization (IMO), in particular the ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, and the ILO Work in Fishing Convention No 188. This includes respect for freedom of association and effective recognition of workers' right to collective bargaining, elimination of forced and child labour, elimination of discrimination in respect of employment and occupation, and a safe and healthy working environment and decent living and working conditions on board Union fishing vessels.

7. The Parties undertake to promote the ratification of ILO and IMO conventions applicable to fishers. They also undertake to promote proper training for fishers, in particular training as provided for in the IMO International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention).

8. In accordance with Article 6 of the Agreement, Union vessels may engage in fishing activities in São Tomé and Príncipe's fishing zone only if they hold a fishing authorisation issued under this Protocol, in accordance with the procedures set out in its Annex.

9. The São Tomé and Príncipe authorities shall issue fishing authorisations to Union vessels exclusively under this Protocol. The issuing of any fishing authorisation to

Union vessels outside the framework of this Protocol, in particular in the form of direct fishing authorisations, shall be prohibited.

10. This Protocol shall be interpreted and applied in accordance with the following acts, and in a manner consistent with them:

- the recommendations and resolutions of the International Commission for the Conservation of Atlantic Tunas (ICCAT) or other relevant regional fisheries organisations, such as the Fishery Committee for the Eastern Central Atlantic (CECAF);
- the 1995 United Nations Fish Stocks Agreement;
- the 1995 FAO Code of Conduct for Responsible Fisheries;
- the 2009 FAO Agreement on Port State Measures;
- the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication, published in 2015.

Article 5

Period of application and access by Union vessels to São Tomé and Príncipe's fishing zone

1. For a period of four (4) years from the date of commencement of provisional application, São Tomé and Príncipe shall authorise access to its fishing zone by Union vessels under Article 5 of the Agreement to allow fishing for highly migratory species (species listed in Annex I to the 1982 United Nations Convention on the Law of the Sea, in particular tunas, swordfish and oceanic whitetip sharks), with the exception of species protected or prohibited by ICCAT.

2. Access to the fishing zone shall be possible for a maximum of:

– 26 tuna seiners

– 9 surface longliners

Those vessels, together with support vessels, shall be authorised subject to the conditions set out in this Annex and in accordance with the relevant ICCAT resolutions and recommendations.

3. Paragraphs 1 and 2 above shall apply subject to the provisions of Articles 9 and 10 of this Protocol.

Article 6

Financial contribution – Methods of payment

1. For the period provided for in Article 5 of this Protocol, the financial contribution provided for in Article 7 of the Agreement shall be EUR 3 300 000.

2. The financial contribution shall comprise:

(a) an annual amount of EUR 325 000 for access to São Tomé and Príncipe's fishing zone, equivalent to a reference tonnage of 6 500 tonnes per year; and

(b) a specific amount of EUR 500 000 per year to support the implementation of São Tomé and Príncipe's sectoral fisheries policy.

3. In addition, operators shall pay an annual financial contribution for their vessels to access São Tomé and Príncipe's fishing zone in accordance with Chapter II of the Annex.

4. Paragraphs 1 and 2 above shall apply subject to Articles 7, 9, 10, 12 and 18 of this Protocol and Articles 12 and 13 of the Agreement.

5. If the annual quantity of catches of all species combined by Union vessels in São Tomé and Príncipe's waters exceeds the annual reference tonnage referred to in paragraph 2(a), a payment of EUR 50 shall be made for each additional tonne caught.

6. The payment for additional catches shall be made after the Parties have agreed on the final statements provided for in Section 2 of Chapter II of the Annex. However, where the quantities caught by European vessels are more than twice the annual reference tonnage, payment of the amount due for catches exceeding that threshold shall be carried over by one year.

7. Payment of the contribution provided for in paragraph 2(a) shall be made no later than ninety (90) days after the date of provisional application of the Protocol in the first year and no later than the anniversary date of the Protocol in the following years.

8. The São Tomé and Príncipe authorities shall have full discretion regarding the use to which the financial contribution provided for in paragraph 2(a) is put, in accordance with the principles of sound financial management.

9. The financial contribution shall be paid into public accounts as follows: the contribution provided for in paragraph 2(a) shall be paid into a Public Treasury account with the Central Bank of São Tomé and Príncipe; the contribution provided for in paragraph 2(b) and that provided for in paragraph 5 shall be paid into the Fisheries Development Fund account and be entered in the budget.

10. The São Tomé and Príncipe authorities shall, each year, send the Union the details of those bank accounts.

11. If São Tomé and Príncipe does not implement the sectoral support programme in accordance with the provisions laid down, and if the Joint Committee has not reached agreement on achieving compliance, the European Commission may recover the undue part of the financial contribution concerned by applying the provisions of Appendix 7 to this Protocol.

12. São Tomé and Príncipe shall provide any assistance needed for the identification and recovery of the funds.

Article 7
Sectoral support

1. Sectoral support shall contribute to the implementation of the national fisheries strategy and the development of the maritime economy. Its aim shall be the sustainable management of fishery resources and the sustainable development of the sector. A sectoral support programme shall be established in the context of this Protocol, including, in particular, actions for:

– capacity support for monitoring, control and surveillance of fishing activities, with measures aimed at deterring and sanctioning infringements relating to IUU fishing;

– scientific assessment of the fishery resources of São Tomé and Príncipe and management measures based on scientific advice;

– support for improving the value chains for fishery products, including by supporting fishing communities, in particular through support for employment and vocational training, with a particular focus on women and young people.

2. No later than three (3) months after the start of provisional application of this Protocol, the Parties shall agree, within the Joint Committee provided for in Article 9 of the Agreement, on a multiannual sectoral support programme and the rules for its implementation, in particular:

(a) the guidelines for using the financial contribution provided for in Article 6(2)(b);

(b) the objectives to be achieved with a view to contributing to sustainable and responsible fishing, implementing the national strategy with regard to fisheries policy;

(c) the criteria and procedures to be used to evaluate, on an annual basis, the results obtained, and the conditions under which payments are made (guidelines).

3. The multiannual sectoral support programme shall be subject to consultations with stakeholders in São Tomé and Príncipe and shall be made public.

4. An annual sectoral support programme shall also be drawn up, setting out the projects and activities by year, and in particular:

   (a) the needs that those projects or activities are intended to meet;

   (b) the objectives;

   (c) the expected results and measurable indicators;

   (d) cost estimates.

5. The Parties shall ensure the visibility of the actions financed by sectoral support and of Union involvement in the partnership with São Tomé and Príncipe. That visibility shall be one of the objectives referred to in paragraph 4.

6. Changes to the objectives and actions included in the annual or multiannual sectoral support programme must be notified in advance to the European Commission. In the event that the European Commission objects, the Joint Committee may be informed so that the Parties can reach agreement on the changes.

7. Each year, São Tomé and Príncipe shall submit a written report on the implementation of activities that form part of the annual sectoral support programme and a financial progress report to the Joint Committee, which shall assess the results of the implementation of the programme.

8. The Parties shall evaluate the results of the implementation of the annual sectoral support programme on the basis of that written report. Where that evaluation shows that the objectives have not been achieved in line with the programme, or if implementation of the programme is deemed insufficient by the Joint Committee, payment of the financial contribution may be reviewed or suspended.

9. Payment of the financial contribution shall resume, following consultation and agreement between the two Parties, as soon as the progress made with regard to implementation is deemed satisfactory by the Joint Committee, where appropriate by exchange of letters. Nevertheless, the specific financial contribution provided for in Article 6(2)(b) shall not be paid out beyond a period of six (6) months after this Protocol expires.

10. The Parties agree to draw up guidelines on the arrangements for implementing and monitoring sectoral support. Those guidelines shall be approved at the first Joint Committee meeting and may be revised as necessary.

11. Checks and controls on the use of funds from the contribution provided for in Article 6(2)(b) may be carried out by the audit and control bodies of each Party,

including the European Court of Auditors and the European Anti-Fraud Office. This shall include a right of access to information, documents and beneficiary sites and facilities.

12. Following approval by the Joint Committee of payment of a sectoral support instalment and of the report provided for in paragraph 7 authorising payment of the next instalment, and provided that it has the full details of the bank account to be used, the Union shall make the payment within 30 days of the Joint Committee's decision.

Article 8

Scientific and technical cooperation to ensure responsible fishing

1. The Union and São Tomé and Príncipe shall undertake scientific and technical cooperation in accordance with the principles and in pursuit of the objectives set out in Article 4 of the Agreement.

2. The Parties undertake to promote cooperation on responsible fishing, including through activities aimed at building São Tomé and Príncipe's scientific capacities, in particular at the specific request of São Tomé and Príncipe.

3. The two Parties undertake to comply with all recommendations and resolutions of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

4. In accordance with Article 4 of the Agreement, on the basis of the recommendations and resolutions adopted by ICCAT, and in the light of the best available scientific advice, the Parties shall consult each other, within the Joint Committee provided for in Article 9 of the Agreement, on possible measures aimed at the sustainable management of the fish species covered by this Protocol and affecting the activities of Union vessels.

5. With a view to the sound management and conservation of sharks, the Parties agree to closely monitor catches of these species by exchanging catch data as provided for in Chapter III of the Annex. Where appropriate, the Joint Committee shall adopt further management measures setting a more adequate framework for the longliner fleet's activities.

6. The two Parties shall work together to strengthen the mechanisms for control, inspection and the combating of illegal, unreported and unregulated fishing in São Tomé and Príncipe.

7. Pursuant to Article 4 of the Agreement, the Parties may convene a scientific meeting for any scientific assessment, to recommend measures aimed at the sustainable management of fishery resources or to implement Articles 10 and 11 of this Protocol.

Article 9

Review of fishing opportunities and technical measures

1. The fishing opportunities provided for in Article 5 may be adjusted by the Joint Committee insofar as that adjustment is consistent with the sustainable management of the fish species covered by this Protocol.

2. In such a scenario, the financial contribution provided for in Article 6(2)(a) must be adjusted *pro rata temporis* and the changes must be recorded in this Protocol and its Annexes.

3. The Joint Committee may examine and, where necessary, adapt or modify, by mutual agreement, the provisions governing fishing activities and technical measures for implementing this Protocol.

Article 10
New fishing opportunities

1. As regards the exploitation of fisheries not covered by this Protocol, the São Tomé and Príncipe authorities may call on the Union to consider the possibility of such fisheries. In the absence of sufficient data on the status of stocks, the Parties shall agree on the conditions for carrying out an exploratory survey, taking account of the best scientific advice provided to both Parties' scientific experts.

2. Depending on the results, and if the Union expresses an interest in these fisheries, the two Parties shall consult each other in the Joint Committee before any authorisation is granted by the São Tomé and Príncipe authorities. Where appropriate, the Parties shall agree on the conditions applicable to these new fishing opportunities and, if necessary, make amendments to this Protocol and its Annex.

Article 11
Landing incentives and promoting cooperation between economic operators

1. The Parties shall cooperate with a view to improving the options for landing catches in ports in São Tomé and Príncipe. São Tomé and Príncipe shall endeavour to promptly put in place favourable conditions to allow EU vessels to land part of their catch. São Tomé and Príncipe shall officially notify the EU as soon as those conditions are in place in the ports designated by São Tomé and Príncipe. Thereafter, the Union fleet shall endeavour to land part of its catch, particularly by-catches.

2. The Parties shall promote technical, economic and commercial relations between enterprises and a favourable framework for the development of trade and investment.

3. The Parties shall cooperate in order to raise awareness among private Union operators of commercial and industrial opportunities in São Tomé and Príncipe's fisheries sector and blue economy.

4. The Parties shall inform Union operators of the logistical arrangements put in place to encourage Union vessels to refuel and take on provisions and other supplies in São Tomé and Príncipe's ports.

5. The Parties undertake to cooperate in order to promote the blue economy, in particular in the areas of aquaculture, maritime spatial planning, energy, marine biotechnology and the protection of marine ecosystems.

6. The Parties shall encourage investment in the fisheries sector and the blue economy, in accordance with the objectives of São Tomé and Príncipe's strategies in those two areas.

Article 12
Suspension of application of the Protocol

1. Application of this Protocol may be suspended at the initiative of one of the two Parties if one or more of the following conditions apply:

(a) unusual circumstances, as defined in Article 2(h) of the Agreement, which prevent fishing activities in São Tomé and Príncipe's fishing zone;

(b) significant changes in the formulation and implementation of the fisheries policy of either one of the Parties affecting the provisions of this Protocol;

(c) triggering of the mechanisms provided for in Article 101(6) and (7) of the Samoa Agreement in the event of violation of the essential elements or in serious cases of corruption as defined by that agreement;

(d) non-payment by the Union of the financial contribution provided for in Article 6(2)(a), for reasons other than those provided for in this Article;

(e) a major and unresolved dispute between the two Parties on the application or interpretation of this Protocol.

2. Where suspension takes place for reasons other than those given in paragraph 1(c), the Party concerned shall be required to notify its intention in writing at least three (3) months before the date on which such suspension would take effect.

3. In the event of suspension, the Parties shall continue to consult each other with a view to finding an amicable settlement to their dispute. Where a settlement is reached, application of the Protocol shall resume and the amount of the financial contribution shall be reduced proportionately and *pro rata temporis* according to the period during which application of the Protocol was suspended.

Article 13
Applicable legislation

1. The activities of Union vessels operating in São Tomé and Príncipe's waters shall be governed by São Tomé and Príncipe's legislation, unless otherwise provided for in the Agreement or this Protocol and its Annex and Appendices.

2. The São Tomé and Príncipe authorities shall notify the Union of any change or any new legislation relating to the fisheries sector. Changes shall be binding on Union vessels within sixty (60) days of notification.

3. The European Commission shall notify the São Tomé and Príncipe authorities of any change or any new legislation relating to the fishing activities of the Union distant-water fleet.

Article 14
Electronic exchange of information

1. São Tomé and Príncipe and the Union shall use and maintain IT systems for electronic exchanges linked to the implementation of the Agreement.

2. Those exchanges relate to:

(a) the procedures for the authorisation of Union vessels by the São Tomé and Príncipe authorities;

(b) the activities of Union vessels in São Tomé and Príncipe's fishing zone, in particular by making available:

– Union vessel positions, in accordance with the provisions laid down for the vessel monitoring system (VMS);

– daily catches by Union vessels;

– fishing zone entry and exit notifications for Union vessels;

– prior notifications of transhipment and declarations of transhipment for Union vessels in São Tomé and Príncipe's ports;

– prior notifications of return to port and landing declarations for Union vessels in São Tomé and Príncipe's ports.

3. The electronic version of a document shall be considered equivalent to the paper version in every respect.

4. São Tomé and Príncipe and the Union shall notify each other without delay of any malfunction of an IT system and implement the necessary procedures for continuity of data exchange. The information and documents relating to the implementation of the Agreement shall then be transmitted by an alternative means of communication for as long as the notified malfunction lasts.

5. The data transmission arrangements, including provisions on continuity of data exchange, are set out in the Annex.

6. The Parties shall endeavour to start transmitting ERS data, as referred to in Chapter III of the Annex, in UN/FLUX format within a maximum of 12 months from the date of signature of this Protocol.

7. In the event of technical difficulties, the Parties agree to consult each other in order to find an alternative solution and take action to achieve this objective as soon as possible.

Article 15
Data protection

1. São Tomé and Príncipe and the Union shall ensure that data exchanged under the Agreement are used by the competent authority solely for the purpose of implementing the Agreement and, in particular, for management purposes and for fisheries monitoring, control and surveillance.

2. The Parties undertake to ensure that all commercially sensitive and personal data relating to Union vessels and their fishing activities obtained within the context of the Agreement, as well as all commercially sensitive information relating to the communication systems used by the Union, are treated as confidential. The Parties shall ensure that only aggregated data relating to fishing activities by Union vessels in the fishing zone are made public.

3. Personal data must be processed lawfully, fairly and in a transparent manner in relation to the data subject.

4. Personal data exchanged within the context of the Agreement shall be processed in accordance with the provisions set out in Appendix 6 to the Annex to this Protocol. Further safeguards and legal remedies in relation to personal data and data subjects' rights may be laid down by the Joint Committee.

5. Data exchanged in the context of the Agreement shall continue to be processed in accordance with this Article and Appendix 6 even after the expiry of this Protocol.

Article 16
Prerogatives of the Joint Committee

1. The Joint Committee established by Article 9 of the Agreement may deliberate or decide by exchange of letters or by remote meeting.

2. In accordance with each Party's own procedures, the Joint Committee shall adopt amendments to this Protocol concerning:

(a) the fishing opportunities under Article 5 and the reference tonnage set in Article 6(2)(a) and, consequently, the financial contribution provided for in Article 6(2)(a), in accordance with Articles 9 and 10 of this Protocol;

(a) the arrangements for implementing the sectoral support provided for in Article 7 of this Protocol;

(b) the technical conditions and arrangements under which Union vessels may carry out their fishing activities;

(c) the additional safeguards for the protection of personal data provided for in Article 15(4).

3. Such amendments to this Protocol shall be recorded in minutes signed by the Parties, which shall specify the date on which the amendments shall apply.

Article 17
Duration

This Protocol shall apply for a period of four (4) years from its provisional application in accordance with Article 19, unless notice of termination is given in accordance with Article 18.

Article 18
Termination

1. In the event of termination of this Protocol, the Party concerned shall notify the other Party in writing of its intention to terminate it at least six months before the date on which such termination would take effect.

2. Dispatch of the notification, as provided for in the previous paragraph, shall open consultations between the Parties.

Article 19
Provisional application

This Protocol shall apply provisionally from the date of signature by the Parties.

Article 20
Entry into force

This Protocol shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

Article 21
Authentic texts

This Protocol is drawn up in duplicate in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

For the European Union For the Democratic Republic of São Tomé and Príncipe

ANNEX

Conditions governing fishing activities by Union vessels in São Tomé and Príncipe's fishing zone

CHAPTER I

GENERAL PROVISIONS

1. DESIGNATION OF THE COMPETENT AUTHORITY

For the purposes of this Annex and unless otherwise specified, any reference to the Union (EU) or to São Tomé and Príncipe as a competent authority shall mean:

– in the case of the EU: the European Commission, where appropriate through the intermediary of the EU delegation with responsibility for São Tomé and Príncipe;

– in the case of São Tomé and Príncipe: the fisheries directorate within the ministry responsible for fisheries.

2. FISHING ZONE

Union vessels operating under this Protocol may carry out their activities in the Exclusive Economic Zone (EEZ) of São Tomé and Príncipe, with the exception of areas reserved for small-scale and semi-industrial fishing.

The coordinates of the EEZ shall be those notified to the United Nations on 7 May 1998.

Any change to the fishing zone shall be notified by São Tomé and Príncipe to the Union without delay.

3. ZONES CLOSED TO SHIPPING AND FISHING

Without exception, all fishing activity in the zone intended for joint development by São Tomé and Príncipe and Nigeria shall be prohibited. The coordinates of this zone are set out in Appendix 1.

4. BANK ACCOUNT

Before the entry into force of the Protocol, São Tomé and Príncipe shall send the EU the details of the bank account(s) into which the financial sums payable by operators of Union vessels under the Agreement are to be paid. The costs of the bank transfers shall be borne by the operators.

5. CONTACT DETAILS

The necessary contact details for the transmission of information under this Annex are set out in Appendix 2.

6. AGENT

Operators of Union vessels planning to land or tranship in a port in São Tomé and Príncipe or to take on board a fisher from São Tomé and Príncipe may be represented by an agent resident in São Tomé and Príncipe, chosen from the list of authorised agents provided by the São Tomé and Príncipe authorities.

7. WORKING LANGUAGES

The Parties agree that, as far as possible, the working languages used in meetings aimed at implementing this Protocol shall be Portuguese and French.

CHAPTER II

FISHING AUTHORISATIONS

For the purposes of applying the provisions of this Annex, the term 'fishing authorisation' shall be equivalent to the term 'fishing permit' in São Tomé and Príncipe's legislation.

Section 1: Applicable procedures

1. CONDITIONS FOR OBTAINING A FISHING AUTHORISATION

1. Only eligible vessels may obtain an authorisation to fish in São Tomé and Príncipe's fishing zone.

2. For a vessel to be eligible, the operator, the master and the vessel itself must not be banned from fishing in São Tomé and Príncipe. They must be in order vis-à-vis the São Tomé and Príncipe authorities insofar as they must have fulfilled all prior obligations arising from their fishing activities in São Tomé and Príncipe under fisheries agreements concluded with the Union. Furthermore, they must comply with Regulation (EU) 2017/2403 on the sustainable management of external fishing fleets.

2. APPLICATION FOR A FISHING AUTHORISATION

1. The competent Union authorities shall submit, by electronic means, an application for each vessel wishing to fish under the Fisheries Partnership Agreement to the ministry responsible for fisheries in São Tomé and Príncipe at least fifteen (15) working days before the start of the period of validity requested.

2. Applications shall be submitted to the ministry responsible for fisheries along with the information listed in Appendix 3. Applications for fishing authorisations and notice of their acceptance shall be transmitted electronically using the LICENCE system, i.e. the secure electronic fishing authorisation management system made available by the European Commission.

3. Each application for a fishing authorisation shall also contain:

– proof of payment of the flat-rate advance and the flat-rate contributions for observers for the period of validity of the authorisation;

– a recent colour photograph of the vessel, showing a lateral view;

– a copy of the vessel's registration certificate;

– where appropriate, any other document required under São Tomé and Príncipe's legislation for the type of vessel concerned and notified by São Tomé and Príncipe in the Joint Committee.

4. The targeted species must be indicated clearly or by their FAO code in each application for a fishing authorisation, in accordance with the list in Appendix 4.

5. The application for a fishing authorisation may include a notification of the intention to partially remove shark fins on board the vessel and to perform other operations on board, such as gutting.

6. For the renewal of an authorisation under the Protocol in force for a vessel whose technical specifications have not been modified, the renewal application may be accompanied only by proof of payment of the fee.

3. PERIOD OF VALIDITY OF FISHING AUTHORISATIONS

Validity shall be for a one-year period, defined as follows:

– for the first year of application of this Protocol, the period between the date of its entry into force and 31 December of the same year;

– thereafter, the period from 1 January to 31 December;

– for the last year of application of this Protocol, the period between 1 January and the date of expiry of this Protocol.

4. FLAT-RATE FEE

1. The amount of the flat-rate fee per vessel for each category is set out in Section 2.

2. The fee shall be paid into the account specified by São Tomé and Príncipe in accordance with point 4 of Chapter I of this Annex.

3. For the first and the last year of application of the Protocol, the flat-rate fees and associated tonnages for seiners and surface longliners shall be reduced *pro rata temporis*.

5. ISSUING OF FISHING AUTHORISATION

1. Fishing authorisations shall be issued by the ministry responsible for fisheries in São Tomé and Príncipe within fifteen (15) working days of receipt of all the documents provided for in point 2 of this Section.

2. The originals shall be handed over to the Union via the Union delegation with responsibility for São Tomé and Príncipe.

3. The authorisation shall specify the species or categories that may be fished (tunas, swordfish and authorised sharks).

4. São Tomé and Príncipe shall indicate that the application has been accepted and upload an electronic copy of the signed original to the LICENCE system, once it has become fully operational. In the meantime, it shall send a scanned copy of the authorisations issued to the Union by email.

5. Where difficulties arise in the transmission of information between the European Commission and São Tomé and Príncipe through the LICENCE system, fishing authorisations shall be exchanged electronically by email until the system is operational again.

6. Each Party shall update the information in the LICENCE system as soon as the system has been restored.

7. So as not to delay the possibility of fishing in the zone, this copy may be used for a maximum of sixty (60) days after the date of issue of the fishing authorisation. During this period, the copy shall be considered equivalent to the original.

8. São Tomé and Príncipe shall draw up the updated list of vessels authorised to fish in São Tomé and Príncipe's zone. That list shall be sent to the national body responsible for supervising fishing and to the EU.

6. EXCEPTIONAL REPLACEMENT OF FISHING AUTHORISATIONS. CANCELLATION OF AN APPLICATION

1. A fishing authorisation shall be issued for a given vessel and shall not be transferable. However, at the request of the Union and where *force majeure* is proven, the fishing authorisation of one vessel may be withdrawn and a new fishing authorisation issued, for the remainder of the period of validity, for another vessel of the same category, in accordance with procedures to be determined.

2. The operator shall return the original fishing authorisation to the ministry responsible for fisheries in São Tomé and Príncipe. The authorisation for the replacement vessel shall take effect on that date. São Tomé and Príncipe shall notify the Union of the transfer of the fishing authorisation and the date on which it took effect.

3. An application for authorisation may be cancelled before the authorisation is issued. Any amounts paid for that authorisation shall be repaid by São Tomé and Príncipe to the operator concerned or credited to the operators' association to cover a future payment under this Protocol.

7. KEEPING THE FISHING AUTHORISATION ON BOARD

The fishing authorisation must be kept on board at all times, without prejudice to the provisions of paragraph 7 of point 5 of this Section.

8. SUPPORT VESSELS

1. At the request of the Union, and following an examination by the São Tomé and Príncipe authorities, São Tomé and Príncipe shall authorise Union fishing vessels holding a fishing authorisation to be assisted by support vessels.

2. The support vessels shall not be equipped for fishing. The support provided shall not include refuelling or the transhipment of catches.

3. Support vessels shall be subject to the procedure for submission of applications for fishing authorisations set out in this Chapter, to the extent applicable to them. São Tomé and Príncipe shall draw up a list of authorised support vessels and send it to the Union immediately.

Section 2: Fees and advance payments

1. The fee payable by operators for catches of all species by Union vessels in São Tomé and Príncipe's fishing zone shall be EUR 85 per tonne.

2. Fishing authorisations shall be issued after payment of the following flat-rate fees:

– for tuna seiners: EUR 11 050 per vessel, equivalent to the fees due for 130 tonnes;

– for surface longliners: EUR 3 995 per vessel, equivalent to the fees due for 47 tonnes;

3. For the first and last one-year periods as defined in paragraph 1, the amount of the flat-rate fee provided for in paragraph 2 and the advance payments, expressed in terms of tonnage, shall be calculated *pro rata temporis*.

4. Support vessels operating in support of seiners shall be subject to payment of an annual fee of EUR 3 500.

5. The fees shall include all national and local taxes, with the exception of port taxes and service charges.

6. For each vessel, the Union shall draw up, on the basis of its catch reporting, a statement of catches and a statement of the fees owed by the vessel in respect of its annual season for the previous calendar year. The Union shall send those final statements to the São Tomé and Príncipe authorities and to the operator, via the Member States, before 30 June of the current year. São Tomé and Príncipe may challenge those final statements within thirty (30) days of receipt, on the basis of supporting evidence. In the event of disagreement, the Parties shall consult each other, where appropriate in the Joint Committee. If São Tomé and Príncipe does not object within the period of thirty (30) days referred to above, the final statements shall be considered adopted.

7. If the final statement is greater than the advance flat-rate fee paid to obtain the fishing authorisation, the operator shall pay the outstanding balance to São Tomé and Príncipe within forty-five (45) days, unless it contests the amount. Outstanding balances shall be paid into the Development Fund account. However, if the final statement is less than the advance flat-rate fee, the remaining amount shall not be reimbursable to the operator.

CHAPTER III

CATCH MONITORING AND REPORTING

Section 1: Electronic fishing logbooks

1. The master of a Union vessel carrying out fishing activities under the Agreement shall keep an electronic fishing logbook integrated into an electronic recording and reporting system (ERS).

2. A vessel not equipped with an ERS shall not be authorised to enter São Tomé and Príncipe's fishing zone in order to engage in fishing activities.

3. The master shall be responsible for the accuracy of the data recorded in the electronic fishing logbook. The fishing logbook shall comply with the relevant ICCAT resolutions and recommendations.

4. Every day, the master shall record the estimated quantities of each species caught and kept on board, or thrown back into the sea, for each fishing operation. The estimated quantities of a species caught or discarded must be recorded regardless of the weight involved.

5. If a vessel is present but does not carry out any fishing activities, its position at noon shall be recorded.

6. The fishing logbook data shall be transmitted automatically and on a daily basis to the fisheries monitoring centre (FMC) of the flag State. Transmissions shall include at least the following:

(a) the identification numbers and name of the Union vessel;

(b) the FAO 3-alpha code of each species;

(c) the relevant geographical area in which the catches were taken;

(d) the date and, where appropriate, the time of the catches;

(e) the date and time of departure from and arrival in port, and the duration of the fishing trip;

(f) the type of gear, technical specifications and dimensions;

(g) the estimated quantities of each species kept on board, in kilograms of live weight or, where appropriate, the number of individual fish;

(h) the estimated quantities of each species discarded, in kilograms of live weight or, where appropriate, the number of individual fish.

7. The flag State shall ensure that the data are received and recorded in a computer database enabling the data to be stored securely for at least 36 months.

8. The flag State and São Tomé and Príncipe shall ensure that they have the necessary IT equipment and software to automatically transmit ERS data. ERS data must be transmitted using the electronic means of communication operated by the European Commission for exchanging fisheries data in a standardised form. Changes to standards shall be implemented within six (6) months.

9. The flag State's FMC shall ensure that fishing logbooks are automatically made available by ERS to São Tomé and Príncipe's FMC on a daily basis for the period during which the vessel is present in the fishing zone, even in the event of a zero catch.

10. The arrangements for reporting catches by ERS and the procedures in the event of malfunction are set out in Appendix 5.

11. The São Tomé and Príncipe authorities shall process data on the fishing activities of individual vessels confidentially and securely.

Section 2 – Aggregate catch data

1. On a quarterly basis, the flag State shall input the quantities of each vessel's catches and discards, aggregated over one month, in the database run by the European Commission. In the case of species subject to a total allowable catch in accordance with the Protocol or ICCAT recommendations, the quantities shall be provided on a monthly basis for the previous month.

2. The flag State shall verify the data through cross-checks with landing, sales, inspection or observation data and any relevant information of which the authorities are aware. Updates to the database required as a result of those verifications shall be carried out as soon as possible. The verifications shall use the geographical coordinates of the fishing zone as established in accordance with this Protocol.

3. Before the end of each quarter, the Union shall provide the São Tomé and Príncipe authorities with aggregated data for the previous quarters of the current year, indicating the quantities of catches per vessel, per month of catch and per species, extracted from the database. Those data shall be provisional and evolving.

4. The São Tomé and Príncipe authorities shall analyse them and report any major inconsistencies with the electronic fishing logbook data provided by ERS. The flag States shall conduct investigations and update data as necessary.

CHAPTER IV

MONITORING, CONTROL AND SURVEILLANCE

Section 1: Control and inspection

Union fishing vessels shall comply with the measures and recommendations adopted by ICCAT with regard to fishing gear, the related technical specifications and all other technical measures applicable to their fishing activities and catches.

1. ENTERING AND LEAVING THE FISHING ZONE

1. Union vessels operating in São Tomé and Príncipe's waters under this Protocol shall notify the competent São Tomé and Príncipe authorities, at least three (3) hours in advance, of their intention to enter or leave São Tomé and Príncipe's EEZ.
2. When notifying entry into or exit from São Tomé and Príncipe's EEZ, vessels must, at the same time, also communicate their position and the catches already held on board, identified by their FAO 3-alpha code, expressed in kilograms of live weight or, where appropriate, in terms of the number of individual fish.
3. These communications must be made by ERS or, alternatively, by email to the address communicated by the São Tomé and Príncipe authorities.
4. A vessel found to be fishing without having notified its intention to enter São Tomé and Príncipe's waters shall be subject to the penalties provided for in São Tomé and Príncipe's legislation.

2. INSPECTION PROCEDURES

1. Inspections at sea, in port or off port in São Tomé and Príncipe's fishing zone on Union vessels holding a fishing authorisation shall be carried out by inspectors from São Tomé and Príncipe who are clearly identified as being assigned to fisheries control, using vessels in the service of the São Tomé and Príncipe authorities.
2. Before boarding, the inspectors from São Tomé and Príncipe shall inform the Union vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who shall provide proof of their identity and official position as an inspector before carrying out the inspection.
3. The inspectors from São Tomé and Príncipe shall stay on board the Union vessel only for as long as is necessary to carry out the tasks associated with the inspection. They shall carry out the inspection in such a way as to minimise the impact on the vessel, its fishing activity and its cargo.
4. Images (photos or videos) made during inspections shall be intended for the authorities responsible for fisheries control and surveillance. They shall not be made public, unless São Tomé and Príncipe's legislation provides otherwise.
5. The master of the Union vessel shall allow the inspectors from São Tomé and Príncipe to come on board and carry out their work.
6. At the end of each inspection, the inspectors from São Tomé and Príncipe shall draw up an inspection report. The master of the Union vessel shall have the right to add comments to the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the Union vessel.

7. The signing of the inspection report by the master shall be without prejudice to the operator's right of defence during any infringement procedure. The master of the vessel shall cooperate while the inspection procedure is being carried out. If the master refuses to sign the document, they shall specify the reasons for doing so in writing, and the inspector shall write 'Refused to sign' on it. The inspectors from São Tomé and Príncipe shall give a copy of the inspection report to the master of the Union vessel before leaving the vessel. The São Tomé and Príncipe authorities shall inform the Union of the inspections carried out within twenty-four (24) hours of their completion and of any infringements found, and send it the inspection report. If applicable, a copy of the resulting indictment shall be sent to the Union within a maximum of seven (7) days after the inspector's return to port.

3. AUTHORISED OPERATIONS ON BOARD

Fishing authorisations issued by São Tomé and Príncipe shall indicate which operations are authorised on board, such as gutting and the partial removal of shark fins.

4. TRANSHIPMENTS AND LANDINGS

1. All Union vessels operating in São Tomé and Príncipe's waters under this Protocol which carry out transhipment in São Tomé and Príncipe's waters must do so off the ports of Fernão Dias, Neves and Ana Chaves. Transhipment at sea shall be prohibited.
2. The operator of the vessel shall provide the São Tomé and Príncipe authorities, within the specified time limits, with the information specified by ICCAT for:
   - advance requests for port entry;
   - prior transhipment notifications;
   - transhipment declarations.
3. Furthermore, declarations of landings in São Tomé and Príncipe's ports shall also be sent to São Tomé and Príncipe, within the same time limits and in the same format as those specified for sending them to the flag State.
4. São Tomé and Príncipe shall carry out checks on transhipment and landing operations in its ports in accordance with its obligations under the Agreement on Port State Measures.
5. The notifications and declarations provided for in this Section shall be sent, preferably by ERS transmission between the flag State and the São Tomé and Príncipe authorities, in accordance with Appendix 5. However, if the information to be provided in the notifications and declarations is not transmitted by ERS in its entirety, the operator shall submit all the information concerning the event in question by email to the São Tomé and Príncipe authorities. In that case, the São Tomé and Príncipe authorities shall acknowledge receipt.

Section 2: Satellite-based vessel monitoring system (VMS)

1. The Parties shall use a vessel monitoring system, hereinafter referred to as 'VMS', to monitor the position and movement of Union fishing vessels in São Tomé and Príncipe's waters.
2. All Union vessels authorised under this Protocol must be equipped with a fully operational vessel monitoring device allowing them to be automatically located and

identified by means of a tracking device, through automatic transmission of vessel position data at regular intervals by satellite.

3. It shall be forbidden to move, disconnect, destroy, damage or render inoperative the monitoring device or to intentionally alter, divert or falsify the data transmitted or recorded by such a system.

4. Union vessels shall automatically and continually communicate their position every two (2) hours to the flag State's FMC. This frequency may be increased as part of measures taken to investigate a vessel's activities.

5. The flag State's FMC shall ensure that vessel position data are automatically made available for the period during which the vessel is present in the fishing zone.

6. Each position message must contain:

(a) the vessel identification;

(b) the most recent geographical position of the vessel (longitude, latitude), with a margin of error of less than 500 metres and with a confidence interval of 99%;

(c) the date and time the position is recorded;

(d) the vessel's speed and course.

7. The arrangements for notifying vessel positions by VMS and the procedures in the event of malfunction are set out in Appendix 5.

8. The FMCs shall communicate with each other in the context of monitoring vessel activity.

CHAPTER V

EMPLOYMENT OF ACP FISHERS ON BOARD UNION VESSELS

1. SIGNING-ON OF ACP FISHERS

1. The operator shall take on African, Caribbean and Pacific (ACP) fishers to work on board the vessel as crew members for the duration of the vessel's fishing activities under this Protocol.

2. The minimum number of fishers from São Tomé and Príncipe to be taken on for each one-year period in accordance with paragraph 1 of this point shall be as follows, subject to the availability of a sufficient number of eligible fishers in accordance with this Protocol:

   – 10 for the tuna seiner fleet as a whole;

   – 3 for the surface longliner fleet as a whole.

3. The fishers to be taken on under paragraph 1 of this point shall meet the requirements of the flag State's legislation transposing Council Directive (EU) 2017/159[3], including as regards passports, seafarer's books, medical certificates, international vaccination cards and basic training certificates. The list of requirements resulting from that legislation

[3] Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) (Text with EEA relevance).

shall be sent to the São Tomé and Príncipe authorities by the flag State sufficiently in advance. The fishers to be taken on under paragraph 1 of this point shall be able to understand the working language used on board the Union vessel and to give orders and instructions and report back in that language.

4. To facilitate taking on fishers from São Tomé and Príncipe, the competent São Tomé and Príncipe authorities shall draw up, regularly update and communicate to operators of Union fishing vessels a list of competent fishers.

5. The master shall draw up, date and sign a crew list that complies with the form set out in the IMO Convention on Facilitation of International Maritime Traffic (FAL Convention) and send a copy of the list to the designated São Tomé and Príncipe authorities before the vessel leaves the port area.

6. The operator of the Union vessel, or the master on their behalf, shall refuse to take a fisher from São Tomé and Príncipe on board their vessel if the fisher does not comply with the requirements provided for in paragraph 3 of this point.

2. WORKING CONDITIONS

The conditions under which the ACP fishers are taken on shall comply with the legislation of the flag State transposing Council Directive (EU) 2017/159, including as regards hours of work and rest, rights of repatriation and occupational safety and health.

3. FISHER'S WORK AGREEMENT

1. For each fisher engaged on board a Union vessel pursuant to paragraph 1 of point 1 of this Chapter, a written work agreement shall be negotiated and signed by both the fisher and the employer.

2. The agreement shall comply with the requirements of the flag State's legislation transposing Council Directive (EU) 2017/159 (Annex I to the Directive).

4. REMUNERATION OF FISHERS

1. The cost of remuneration and any additional labour costs shall be borne directly or, if the fisher is employed by a private labour market service, indirectly by the operator.

2. ACP fishers must be paid a guaranteed monthly or regular remuneration, preferably by bank transfer, irrespective of the actual amount of fish caught and/or sold. It shall be fixed by mutual agreement between the operators or their agents and the fishers and/or their trade unions or representatives. Where no collective bargaining agreement has been concluded, the terms of remuneration granted to ACP fishers shall not be inferior to those applied to fishers from their respective ACP countries and shall under no circumstances be inferior to the terms set by the Subcommittee on Wages of Seafarers of the Joint Maritime Commission of the ILO, in the absence of any such standard for fishers designed to provide an international safety net to protect and help ensure decent work for fishers.

3. Fishers shall not have to bear any costs associated with the payments received. Fishers shall be given the means to transmit all or part of the payments received, including advance payments, to their families at no cost.

4. Fishers must receive a payslip for every settlement of remuneration and, if they so request, proof that their wages have been paid.

5. SOCIAL SECURITY

São Tomé and Príncipe shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided for in national legislation, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, in particular employed and self-employed persons, ordinarily resident in its territory.

6. PRIVATE LABOUR MARKET SERVICES

1. Private labour market service means:

(a) a recruitment and placement service, meaning any person, company, institution, agency or other organisation in the public or private sector engaged in recruiting fishers on behalf of operators or placing fishers with operators;

(b) a private employment agency, meaning any person, company, institution, agency or other organisation in the private sector engaged in employing or recruiting fishers with a view to making them available to operators, who assign their tasks and supervise the execution of those tasks.

2. The competent São Tomé and Príncipe authorities shall ensure that agents in São Tomé and Príncipe providing private labour market services to both fishers and operators of Union vessels:

(a) do not use any means, mechanisms or lists aimed at preventing or deterring fishers from finding work;

(b) do not directly or indirectly charge fishers any fees or other charges, in money or in kind, in whole or in part, for their labour market services;

(c) do not provide any loans, goods or services to a fisher to be repaid or paid for by the fisher;

(d) do not deduct from the fisher's remuneration any amount as payment for or repayment of any loans, goods or services provided prior to the fisher's employment; and

(e) ensure that:

– the fisher's work agreement complies with this Chapter and with the laws, regulations and collective bargaining agreements governing the agreement;

– the fisher's work agreement is drawn up in a language which the fisher understands and in the official or working language of the Union vessel concerned;

– recruited fishers are informed of their rights and obligations before they sign their work agreement;

– the necessary measures are taken to enable recruited fishers to examine and seek advice on the terms of their work agreement before signing it;

– the recruited fishers receive a signed copy of their work agreement;

– the fishers comply with their obligations under this Chapter; and

– the operator of the Union vessel is provided, in good time, with a copy of each payslip and proof of payment for every settlement of remuneration if the agent handles the payment of remunerations.

3. The competent São Tomé and Príncipe authorities shall ensure that agents in São Tomé and Príncipe employing fishers in order to post them on board Union vessels sign work

agreements with those fishers that clearly state that the fisher in question is employed by the agent with a view to being made available to operators of Union vessels, who assign their tasks and supervise the execution of those tasks.

4. By way of derogation from paragraph 2(b) of point 6 of this Chapter, the costs of obtaining a seafarer's book, a medical certificate and a passport shall be borne by the fisher or by another person or organisation as laid down by the relevant legislation, the fisher's work agreement or any collective bargaining agreement. The costs of obtaining a visa and work permit, if required, shall be borne by the employer.

7. COMPLIANCE WITH THIS CHAPTER

1. The competent authorities of the Parties shall ensure that the legislation applicable to fishers is easily accessible, free of charge, in a comprehensive and transparent form.

2. The competent São Tomé and Príncipe authorities shall ensure that this Chapter is duly implemented in line with their obligations under international law and in accordance with their obligations under this Chapter.

3. The authorities of the flag State shall ensure that points 1 to 3 of this Chapter are duly applied on board vessels flying their flag. They shall exercise their responsibilities in accordance with the ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels.

4. If the required number of fishers from São Tomé and Príncipe as laid down in paragraph 2 of point 1 of this Chapter is not reached, the operators of vessels that have not taken on board any fishers from São Tomé and Príncipe shall pay a fixed sum, calculated as follows for each vessel:

   EUR 25 × (number of fishers not taken on board in that category) / (number of vessels that did not take on board an authorised fisher in that category) × number of days for which the vessel in question was present in São Tomé and Príncipe's fishing zone during the one-year period.

5. The Parties shall agree on penalty amounts before 1 April for activities by vessels during the previous year. Any penalties paid shall be used by São Tomé and Príncipe to train fishers with a view to promoting their recruitment.

6. The number of days for which tuna seiners and surface longliners were present in the fishing zone shall be calculated by the Union authorities on the basis of the VMS data provided by São Tomé and Príncipe or by the flag State before 15 March for the previous one-year period. If a discrepancy is identified by a flag State or by São Tomé and Príncipe on the basis of the VMS data provided by São Tomé and Príncipe's FMC, the FMCs of the Parties concerned shall provide, for the vessels concerned, the dates and times of entry into and exit from the fishing zone defined by this Protocol in order to provide the Union authorities with an agreed statement.

7. An operator shall be exempted from the payment provided for in paragraph 4 of this point if they have not taken a seafarer on board:

— pursuant to paragraph 6 of point 1 of this Chapter;

— where a fisher who signed a work agreement in accordance with point 3 of this Chapter fails to report to the master on the date and at the time specified in the work agreement;

— where the São Tomé and Príncipe authorities failed to provide the operator or the operator's representative with the list provided for in paragraph 4 of point 1 of this Chapter;

— where the list does not contain a sufficient number of fishers to be taken on to cover the obligations laid down in paragraph 2 of point 1 of this Chapter.

8. The Joint Committee shall regularly assess the signing-on of fishers from São Tomé and Príncipe.

CHAPTER VI

OBSERVERS

1. OBSERVATION OF FISHING ACTIVITIES

Pending the implementation of a system of regional observers, vessels authorised to fish in São Tomé and Príncipe's fishing zone under the Agreement shall take on board, instead of regional observers, observers designated by São Tomé and Príncipe, in accordance with the rules set out in this Chapter.

2. DESIGNATED VESSELS AND OBSERVERS

Union vessels operating in São Tomé and Príncipe's waters under this Protocol shall take on board observers designated by São Tomé and Príncipe's Ministry of Fisheries, on the terms set out below:

(a) At the request of the São Tomé and Príncipe authorities, Union vessels shall take on board an observer designated by the former to check catches made in São Tomé and Príncipe's waters.

(b) The São Tomé and Príncipe authorities shall draw up a list of the vessels designated to take an observer on board and a list of the observers designated to be taken on board. These lists shall be kept up to date. They shall be forwarded to the European Commission as soon as they have been drawn up and every three (3) months thereafter, as they may have been updated;

(c) the São Tomé and Príncipe authorities shall inform the Union and the operators concerned of the name of the observer designated to be taken on board the vessel, preferably by email, at the time the fishing authorisation is issued, or no later than fifteen (15) days before the observer's planned embarkation date;

(d) the time spent on board by the observer shall be one fishing trip. However, at the express request of the São Tomé and Príncipe authorities, this embarkation may be spread over several trips depending on the average duration of the trips planned for a particular vessel. This request shall be made by the competent authority when notifying the name of the observer designated to board the vessel in question.

3. BOARDING AND DISEMBARKING CONDITIONS

1. The conditions under which the observer is taken on board shall be agreed between the operator or their representative and the competent authority.

2. The observer shall board and disembark at a port chosen by the operator. Boarding shall take place at the beginning of the first trip in São Tomé and Príncipe's waters after notification of the list of designated vessels.

3. Within two (2) weeks and giving ten (10) days' notice, the operators concerned shall make known at which ports in the subregion and on what dates they intend to take the observers on board and put them ashore.

4. If an observer is taken on board in a country other than São Tomé and Príncipe, the observer's travel costs shall be borne by the operator. If a vessel with an observer on board leaves São Tomé and Príncipe's fishing zone, every measure must be taken to ensure the observer's return to São Tomé and Príncipe as soon as possible at the operator's expense.

5. If the observer is not present at the time and place agreed and for twelve (12) hours thereafter, the operator shall be automatically absolved of their obligation to take that observer on board.

6. The master shall do everything in their power to ensure the physical safety and welfare of the observer during the performance of their duties.

7. The observer shall be provided with every facility needed to carry out their duties. The master shall give them access to the means of communication needed to carry out their tasks, to documents relating directly to the vessel's fishing activities, including, in particular, the fishing logbook and the navigation log, and to the necessary parts of the vessel to allow them to accomplish their tasks.

8. The operator shall bear the costs of providing board and lodging for observers in the same conditions as for officers, within the confines of the practical possibilities offered by the vessel.

9. The salary and social contributions of the observer shall be borne by São Tomé and Príncipe.

4. FLAT-RATE FINANCIAL CONTRIBUTION

In order to contribute to the implementing costs for the placement of observers, the operator shall, when paying the flat-rate advance, pay an amount of EUR 250 per year per vessel into the same account as that used for the flat-rate advances.

5. THE OBSERVER'S TASKS

Observers shall be treated as officers when on board. When Union vessels are operating in São Tomé and Príncipe's waters, observers shall carry out the following tasks:

(a) observe the fishing activities of the vessels;

(b) verify the position of vessels engaged in fishing operations;

(c) record the fishing gear used;

(d) verify the data recorded in the fishing logbook for catches taken in São Tomé and Príncipe's waters;

(e) verify the percentages of by-catches and estimate the quantity of discards of marketable fish species;

(f) report fishing data, including the quantity of catches and by-catches on board, to their competent authority by any appropriate means.

6. THE OBSERVER'S OBLIGATIONS

While on board, observers shall:

(a) take all appropriate steps to ensure that the manner of their boarding and their presence on board the vessel neither interrupt nor hamper fishing operations;

(b) respect the material and equipment on board and the confidentiality of all documents belonging to the vessel;

(c) at the end of the observation period and before leaving the vessel, draw up an activity report to be transmitted to the competent São Tomé and Príncipe authorities, with a copy to the European Commission. The observer shall sign it in the presence of the master, who may add or have added to it any observations considered relevant, followed by the master's signature. A copy of the report shall be handed to the master when the observer is put ashore.

CHAPTER VII

INFRINGEMENTS

1. HANDLING OF INFRINGEMENTS

Any infringement committed by a Union vessel holding a fishing authorisation in accordance with the provisions of this Annex shall be the subject of an indictment report to be sent to the Union and the flag State as soon as possible.

2. DETENTION OF THE VESSEL / DIVERSION – INFORMATION MEETING

1. If São Tomé and Príncipe's legislation so provides with regard to the reported infringement, any Union vessel having committed an infringement may be forced to cease its fishing activity and, if the vessel is at sea, to return to a port in São Tomé and Príncipe.

2. São Tomé and Príncipe shall notify the Union within a maximum of twenty-four (24) hours of any detention of a Union vessel holding a fishing authorisation. That notification shall be accompanied by documentary evidence of the reported infringement.

3. Before taking any measures against the vessel, the master, the crew or the cargo, with the exception of measures intended to protect evidence, São Tomé and Príncipe shall, at the request of the Union and within one (1) working day of notification of the detention of the vessel, organise an information meeting to clarify the facts that led to the vessel's detention and to explain what further action may be taken. A representative of the vessel's flag State may attend this information meeting.

3. PENALTIES FOR INFRINGEMENTS – COMPROMISE PROCEDURE

1. The penalty for the reported infringement shall be set by São Tomé and Príncipe in accordance with São Tomé and Príncipe's legislation.

2. Where settling the infringement involves legal proceedings, and provided that the infringement does not involve a criminal act, a compromise procedure between São Tomé and Príncipe and the Union shall take place to determine the terms and level of the penalty before those proceedings are launched. Representatives of the flag State and the Union may participate in this compromise procedure. The compromise procedure shall finish at the latest three (3) days after notice is given of the vessel's detention.

4. LEGAL PROCEEDINGS – BANK SECURITY

1. If the compromise procedure fails and the infringement is brought before the court, the operator of the Union vessel that committed the infringement shall deposit a bank

security at a bank designated by São Tomé and Príncipe, the amount of which, as set by São Tomé and Príncipe, shall cover the costs associated with the detention of the vessel, the estimated fine and any compensation. The bank security shall not be released until the legal proceedings have been concluded.

2. The bank security shall be released and returned to the operator without delay after judgment has been given:

(a) in full, if no penalty has been imposed;

(b) for the amount of the remaining balance, if the penalty is a fine which is lower than the amount of the bank security.

3. São Tomé and Príncipe shall inform the Union of the outcome of the legal proceedings within seven (7) days of the judgment being given.

5. RELEASE OF THE VESSEL AND THE CREW

The vessel and its crew shall be authorised to leave port upon payment of the penalty in a compromise procedure, or once the bank security has been deposited.

APPENDICES

Appendix 1	Coordinates of the Nigeria–São Tomé and Príncipe Joint Development Zone
Appendix 2	Contact details
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Appendix 1
Coordinates of the Nigeria–São Tomé and Príncipe Joint Development Zone

Latitude (degrees, minutes and seconds)	Longitude
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

Appendix 2 Contact details for the transmission of information under this Protocol

For the Union:

Fishing authorisations:

LICENCE application: https://webgate.ec.europa.eu/licence

MARE-LICENCES@ec.europa.eu

Aggregated catches:

MARE-CATCHES@ec.europa.eu

UN/FLUX help desk: MARE-FISH-IT-SUPPORT@ec.europa.eu

For São Tomé and Príncipe: to be notified before provisional application of the Protocol

Appendix 3 Application for authorisation to fish in São Tomé and Príncipe's fishing zone

Unless otherwise specified, the following information must be provided regarding the applicant, the vessel owner, identification of the vessel, its technical data and the period applied for.

Fishing category
Name of applicant
Telephone number of applicant
Email address of applicant
Name of vessel owner
Town, postcode and country of residence of the vessel owner
Name of the owner or up to a maximum of five main beneficial owners of the vessel
Town, postcode and country of residence of the owner or up to a maximum of five main beneficial owners of the vessel
Name of master
Nationality of master
Email address of vessel
Name and address of local agent
Name of vessel
Flag State
Port of registration
IRCS
External marking
MMSI
IMO No
ICCAT No
Date of current flag registration
Previous flag (if any)
Place of construction
Date of construction
Call frequency
Satellite telephone number
LOA (metres)

Tonnage (expressed in GT London)
Type of engine
Engine power (kW)
Number of crew
Conservation method on board
Processing capacity per day (24 hours) in tonnes
Number of fish holds
Total capacity of fish holds (m^3)
VMS manufacturer
VMS model
VMS serial No
VMS software version
Satellite operator
Authorised fishing gear
Place for landing catch
Requested authorisation start date
Requested authorisation end date
Target species (FAO codes)

Application for authorisation of processing on board: gutting / partial removal of shark fins / other to be specified

Appendix 4
Data sheet
Tuna seiners and surface longliners

PROHIBITED SPECIES

In accordance with the Convention on Migratory Species and with the ICCAT resolutions, fishing for the giant manta ray (*Manta birostris*), the basking shark (*Cetorhinus maximus*), the white shark (*Carcharodon carcharias*), the bigeye thresher shark (*Alopias superciliosus*), hammerhead sharks in the *Sphyrnidae* family (with the exception of the bonnethead shark), the oceanic whitetip shark (*Carcharhinus longimanus*) and the silky shark (*Carcharhinus falciformis*) is prohibited. Fishing for the whale shark (*Rhincondon typus*) is also prohibited.

In accordance with EU law (Council Regulation (EC) No 1185/2003 of 26 June 2003), it is prohibited to remove shark fins on board vessels and to keep on board, tranship or land shark fins. Without prejudice to the above, shark fins may be partially sliced through and folded against the carcass in order to facilitate on-board storage; however, they must not be removed from the carcass before landing.

In line with ICCAT recommendations, the Parties shall endeavour to reduce the accidental impact of fishing activities on turtles and seabirds by implementing measures to maximise the chance of survival of individual turtles and seabirds caught by accident.

TUNA SEINERS

Authorised gear: seine

Target species: yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*)

By-catches: compliance with ICCAT and FAO recommendations

SURFACE LONGLINERS

Authorised gear: surface longline

Target species: swordfish (*Xiphias gladius*), blue shark (*Prionace glauca*), yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*)

By-catches: compliance with ICCAT and FAO recommendations

Authorisation of processing on board to be applied for when applying for authorisation to fish (see list in Appendix 3).

Operators' fees – number of vessels

Additional fee per tonne caught	EUR 85 per tonne for the entire duration of the Protocol
Annual flat-rate fee	For tuna seiners: EUR 11 050 – 130 t For surface longliners: EUR 3 995 – 47 t
Flat-rate fee for observers	EUR 250 per vessel per year
Fee per support vessel	EUR 3 500 per vessel per year
Number of vessels authorised to fish	26 tuna seiners 9 surface longliners

Appendix 5 Technical requirements for implementation of the vessel monitoring system (VMS) and the system for recording fishing activities (ERS)

Section 1 – Common provisions on the transmission of vessel position data and on ERS deployment by the Parties; business continuity

If a technical fault occurs and affects transmission of vessel position data or fishing activity data ('ERS data') between the Parties' FMCs, Union vessels affected by that fault shall not be considered to be in a situation of non-compliance.
The Parties shall set up a connection based on the FLUX Transportation Layer software provided by the European Commission and shall use the UN/FLUX format. São Tomé and Príncipe shall ensure that its electronic equipment is compatible with the Union system.
The Parties shall implement an acceptance environment for testing purposes before they start using the production environment. The Union shall send test messages to São Tomé and Príncipe's FMC in the acceptance environment. Once the tests have been successfully completed, the two Parties shall agree on the date from which vessel position data and ERS data are to be sent automatically via the FLUX Transportation Layer software and in the UN/FLUX format.
Until that date, position data of Union vessels and ERS data shall be sent using the formats and arrangements already in place when this Protocol starts to apply.
The FMCs of the flag State and São Tomé and Príncipe and the European Commission shall exchange their contact email addresses and shall promptly inform each other of any changes to those addresses.
The FMCs of the flag State and São Tomé and Príncipe and the European Commission shall inform each other as soon as possible of any interruption in the automatic transmission of data; or, in the event of any maintenance operations lasting more than 48 hours, shall endeavour to restore automatic transmission and shall notify the other Party as soon as it has been restored.
The Joint Committee shall deal with any dispute that may arise.
If the interruption lasts for more than 48 hours, the FMC of the flag State shall, in the meantime, provide data by email every 24 hours until automatic transmission resumes. São Tomé and Príncipe's FMC may request this arrangement from the flag State's FMC if the malfunction concerns its system and persists beyond 48 hours despite its best efforts to repair it.
Data affected by the interruption shall also be resent using automatic transmission systems once these have been restored.
The São Tomé and Príncipe authorities shall inform their competent control services so that Union vessels are not considered non-compliant because of a failure to transmit data.
Each Party shall ensure that the data is consistent; in particular, they shall see to it that suitable filters are integrated into their systems and applied to the data to ensure that only data relating to fishing activities in São Tomé and Príncipe's fishing zone are taken into account.

Section 2 – Technical requirements for VMS data transmission

1. Vessel position data – vessel monitoring system

The flag State's FMC shall ensure that vessel position data are automatically processed and electronically transmitted, using the centralised connection provided by the European

Commission. The vessel position data must be recorded in a secure manner and kept by the Parties for a period of three years.

The first position recorded after entry into São Tomé and Príncipe's fishing zone shall be identified by the code 'ENT' (NAF) or 'ENTRY' (UN/FLUX). All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after leaving São Tomé and Príncipe's fishing zone, which shall be identified by the code 'EXI' (NAF) or 'EXIT' (UN/FLUX).

2. Transmission by the vessel in the event of breakdown of the vessel monitoring device

Union vessels fishing in São Tomé and Príncipe's fishing zone with a defective vessel monitoring device must send their position messages by email to the flag State's FMC at least every four hours and must provide all the mandatory information. The flag State's FMC shall inform São Tomé and Príncipe's FMC of this change. Position data shall then be transmitted at that frequency.

São Tomé and Príncipe's FMC shall inform the flag State's FMC and the Union of any interruption in the receipt of position messages from a vessel holding a fishing authorisation where the vessel concerned has not notified its exit from São Tomé and Príncipe's fishing zone.

Structure of messages in NAF communicating vessel position data to São Tomé and Príncipe

Data	Code	Mandatory (M) / Optional (O)	Content
Start of record	SR	M	System detail indicating start of record
Addressee	AD	M	Message detail – Addressee alpha-3 country code (ISO-3166)
From	FR	M	Message detail – Sender alpha-3 country code (ISO-3166)
Flag State	FS	M	Message detail – Flag State alpha-3 code (ISO-3166)
Type of message	TM	M	Message detail – Type of message (ENT, POS, EXI, MAN)
Radio call sign (IRCS)	RC	M	Vessel detail – Vessel international radio call sign (IRCS)
Party internal reference number	IR	O	Vessel detail – Unique number assigned by the Party to identify the vessel
Unique vessel identifier (IMO number)	IM	M	Vessel detail – IMO number Mandatory if the ship has such a number
External registration number	XR	M	Vessel detail – Number on side of vessel (ISO 8859.1)

Latitude	LT	M	Vessel position details – Latitude of position in decimal degrees (WGS84) ± DD.ddd. Positive numbers for the northern hemisphere; negative numbers for the southern hemisphere. The plus sign (+) need not be transmitted. Non-significant zeros may be omitted. The value must be between − 90 and + 90.
Longitude	LG	M	Vessel position details – Longitude of position in decimal degrees (WGS84) ± DDD.ddd. Positive numbers for the northern hemisphere; negative numbers for the southern hemisphere. The plus sign (+) need not be transmitted. Non-significant zeros may be omitted. The value must be between − 180 and + 180.
Course	CO	M	Vessel course 360° scale
Speed	SP	M	Vessel speed in tenths of knots
Date	DA	M	Vessel position detail – Date of position record in UTC (YYYYMMDD)
Time	TI	M	Vessel position detail – Time of position record in UTC (HHMM)
End of record	ER	M	System detail indicating end of record

Once the new UN/FLUX format and transmission via the FLUX Transportation Layer have been effectively implemented, VMS data shall be transmitted in accordance with the format and processes set out in the implementation document made available on the European Commission's website.

PROTECTION OF VMS DATA

All monitoring data communicated by one Party to the other Party in accordance with these provisions shall be used exclusively for:

- monitoring, control and surveillance by the São Tomé and Príncipe authorities of the Union fleet fishing under this Protocol, and
- research studies carried out by São Tomé and Príncipe in the context of fisheries management and development.

5.2. Such data shall not, under any circumstances, be disclosed to third parties, for whatever reason.

Section 3 – Technical requirements for implementation of the system for recording fishing activities and reporting ERS data

1. When in São Tomé and Príncipe's fishing zone, the master of a Union vessel holding an authorisation issued under this Protocol must:

(a) record each entry into and exit from the fishing zone by a specific message, indicating the quantities of each species held on board at the time of such entry into or exit from the fishing

zone, and the date, time and position of such entry or exit. This message shall be transmitted to São Tomé and Príncipe's FMC by ERS or by other means of communication no later than two hours before the entry or exit;

(b) record daily the position of the vessel at noon if no fishing activity has been carried out;

(c) for each fishing operation carried out, record the position of that operation, the gear type and the quantity of each species caught, distinguishing between catches retained and discarded. Each species shall be identified by its FAO 3-alpha code; quantities shall be expressed in kilograms of live weight and, if necessary, in terms of the number of individual fish;

(d) transmit daily to its flag State, no later than at 24:00, the data recorded in the electronic fishing logbook; these data shall be transmitted for each day spent in São Tomé and Príncipe's fishing zone, even where no catch has been taken. They shall also be transmitted before each exit from the fishing zone.

2. The flag State's FMC shall make the ERS data available to São Tomé and Príncipe's FMC. The flag State's FMC shall transmit instant ERS messages (notification of entry into the zone, notification of exit from the zone, notification of arrival in port) to São Tomé and Príncipe's FMC promptly and automatically. Other ERS messages from the vessel shall be automatically transmitted once a day.

3. Until the end of the testing phases provided for in Section 1:

- data shall be transmitted via the Data Exchange Highway (DEH) in EU-ERS (v 3.1) format[4];

- notifications of transhipments shall be made by email to the competent São Tomé and Príncipe authority;

- only instant messages ('notification of entry into the zone' – COE, 'notification of exit from the zone' – COX, 'notification of arrival in port' – PNO) shall be transmitted automatically and without delay. Other types of messages shall be made available by means of an automatic request from São Tomé and Príncipe's FMC.

4. Once the UN/FLUX format and transmission via the FLUX Transportation Layer have been effectively implemented:

- the practice of making messages available upon request shall concern only specific requests for historical data;

- ERS data shall be transmitted in accordance with the format and processes set out in the implementation document available on the European Commission's website.

5. São Tomé and Príncipe's FMC shall confirm receipt of instant ERS data sent to it by means of a return message acknowledging receipt and confirming the validity of the message received. For

[4] Technical documentation can be found on the Europa.eu website: https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp.

ERS data exchanged via the DEH, no acknowledgement of receipt shall be provided for data that São Tomé and Príncipe's FMC receives in response to a request it has submitted itself.

6. Where a defect occurs in the transmission between the vessel and the flag State's FMC, the flag State's FMC shall promptly notify the master or operator of the vessel or their representative(s). On receipt of this notification, the master of the vessel shall transmit the missing data to the competent authorities of the flag State by any appropriate means of telecommunication every day by 24:00 at the latest.

7. In the event of a malfunction of the electronic transmission system installed on board the vessel, the master or the operator of the vessel shall ensure that the ERS is repaired or replaced within 10 days of detecting the malfunction. Once that deadline has passed, the vessel shall no longer be authorised to fish in the fishing zone and must leave it or call at a port in São Tomé and Príncipe within 24 hours. The vessel shall not be authorised to leave that port or return to the fishing zone until the FMC of its flag State has established that the ERS is functioning correctly again.

Appendix 6 Processing of personal data

1. Definitions and scope

1.1 Definitions

For the purposes of this Appendix, the definitions set out in Article 2 of the Agreement and Article 1 of this Protocol and the following definitions apply:

‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number or location data;

‘processing’ means any operation or set of operations performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

‘transferring authority’ means a public authority that sends personal data;

‘receiving authority’ means a public authority to which personal data are disclosed;

‘data breach’ means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

‘onward transfer’ means the transfer of personal data by a receiving party to an entity that is not a signatory to this Protocol (‘third party’);

‘supervisory authority’ means an independent public authority responsible for monitoring the application of this Article in order to protect the fundamental rights and freedoms of natural persons in relation to the processing of personal data.

1.2 Scope

The data subjects under this Protocol are, in particular, natural persons who own Union vessels, their representatives, and masters and crew engaged on board Union vessels operating under this Protocol.

With regard to the implementation of this Protocol, in particular as regards grant applications, monitoring of fishing activities and the fight against illegal fishing, the following data may be exchanged and further processed:

— the identification and contact details of the vessel;

— the activities of a vessel or relating to a vessel, its position and movements, its fishing activity or fishing-related activity, collected through checks, inspections or observers;

— data relating to vessel owner(s) or their representative, such as name, nationality, business contact details and business bank account;

— data relating to a local agent, such as name, nationality and business contact details;

— data relating to masters and crew members, such as name, nationality, function and, in the case of the master, contact details;

— data relating to fishers taken on board, such as name, contact details, training and health certificate.

1.3 Responsible authorities

The authorities responsible for processing the data are the European Commission and the authority of the flag Member State for the Union, and the National Agency for the Protection of Personal Data (ANPDP) for São Tomé and Príncipe.

2. Personal data protection safeguards

2.1 Purpose limitation and data minimisation

The personal data requested and transferred under this Protocol shall be adequate, relevant and limited to what is necessary for the implementation of the Protocol, i.e. for processing fishing authorisations and for the control and monitoring of the activities of Union vessels. The Parties shall exchange personal data under this Protocol only for the specific purposes set out in the Protocol.

The data received shall not be processed for purposes other than those provided for in this paragraph, or else they shall be anonymised.

Upon request, the receiving authority shall inform the transferring authority without delay of how the data provided are used.

2.2 Accuracy

The Parties shall ensure that personal data transferred under this Protocol are accurate, up to date and, where appropriate, regularly updated on the basis of the knowledge of the transferring authority. If one of the Parties finds that the personal data transferred or received are inaccurate, it shall inform the other Party without delay and shall correct and update the personal data as necessary.

2.3 Storage limitation

Personal data shall not be kept for longer than is necessary for the purpose for which they were exchanged, up to a maximum of one year after expiry of this Protocol, unless the personal data are necessary to follow up an infringement, inspection or judicial or administrative proceedings. In that case, the data may be kept for as long as is necessary to enable the infringement or inspection to be followed up or until the judicial or administrative proceedings have been definitively closed.

If personal data are kept for longer, they shall be anonymised.

2.4 Security and confidentiality

Personal data shall be processed in such a way as to ensure that they are appropriately secure, taking into account the specific risks of processing, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage. The authorities responsible for processing shall address any data breach and take all measures necessary to remedy or mitigate any adverse effects of such personal data breaches. The receiving authority shall notify such a breach to the transferring authority as soon as possible, and the two authorities shall cooperate with each other in a timely manner as necessary for each to comply with its obligations arising as a result of a personal data breach under its national legal framework.

The Parties undertake to put in place appropriate technical and organisational measures to ensure that processing is compliant with the provisions of this Protocol.

2.5 Rectification or erasure

The Parties shall ensure that the transferring and receiving authorities take all reasonable steps to ensure that personal data are, as appropriate, rectified or erased without delay if the processing is not compliant with the provisions of this Protocol, in particular because the data are not adequate, relevant or accurate or because they are excessive in relation to the purpose of the processing.

The Parties must notify each other of any rectification or erasure.

2.6 Transparency

The Parties shall ensure that data subjects are informed, by way of individual notification and publication of this Protocol on their websites, of the type of data transferred and further processed, the manner in which personal data are processed, the relevant tool used for the transfer, the purpose of the processing, the third parties or categories of third parties to which the information may be transferred onward, the individual rights and mechanisms available to them to exercise their rights and obtain redress, and details of where they can bring proceedings or lodge complaints.

2.7 Onward transfer

The receiving authority shall transfer personal data received under this Protocol to a third party established in a country other than the flag Member State only:

– if this is justified by an important public interest objective that is also recognised in the legislation applicable to the transferring authority, and

– if the other requirements laid down in this Appendix (in particular as regards purpose limitation and data minimisation) are met; and

– if the European Commission has adopted an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 of the European Parliament and of the Council[5] (‘adequacy

[5] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/679/oj).

decision') in respect of the country where the third party is located or where the international organisation is located and that decision covers the onward transfer; or

– in specific cases, where such transfer is necessary for the transferring authority to fulfil its obligations towards RFMOs or regional fisheries organisations; or

– in exceptional cases and where deemed necessary, provided that the third party undertakes to process the data solely for the specific purpose(s) for which they are being transferred onward and to erase them as soon as processing is no longer necessary for that purpose.

3. Data subject rights

3.1 Access to personal data

At the request of a data subject, the receiving authority must:

– confirm to the data subject whether or not personal data relating to the data subject are being processed;

– provide information on the purpose of the processing, categories of personal data, storage period (if possible), right to request rectification/deletion, right to lodge a complaint, etc.;

– provide a copy of the personal data;

– provide general information on the applicable safeguards.

3.2 Correction of personal data

At the request of a data subject, the receiving authority shall rectify any of the data subject's personal data that are incomplete, inaccurate or obsolete.

3.3 Deletion of personal data

At the request of a data subject, the receiving authority must:

– erase any personal data relating to the data subject that have been processed in a manner that is not compliant with the safeguards set out in this Protocol;

– erase any personal data relating to the data subject that are no longer necessary for the purposes for which they were lawfully processed;

– discontinue the processing of personal data if the data subject objects on grounds relating to their particular situation, unless there are compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject.

3.4 Procedures

The receiving authority shall respond in a timely manner, within a reasonable time frame and in any event within one month of the request, to requests from data subjects concerning access to – or rectification or erasure of – their personal data. The receiving authority may take appropriate steps, such as charging reasonable fees to cover administrative costs or refusing to act on a request that is manifestly unfounded or excessive.

If a data subject's request is refused, the receiving authority shall inform the data subject of the reasons for the refusal.

3.5 Restrictions

The rights provided for in point 3 may be restricted if such restriction is provided for by law and is necessary and proportionate in a democratic society for the prevention, investigation, detection and prosecution of criminal offences.

Those rights may also be restricted in order to safeguard a monitoring, inspection or regulatory function connected, even occasionally, to the exercise of official authority.

They may also be restricted, under the same conditions, for the protection of the data subject or of the rights and freedoms of others.

4. Redress and independent supervision

4.1 Independent supervision

Compliance of the processing of personal data with this Protocol must be subject to independent supervision by an external or internal body that exercises independent supervision and has investigative and remedial powers.

4.2 Supervisory authorities

For the Union, such supervision shall be exercised by the European Data Protection Supervisor (EDPS), where the processing falls under the competence of the Commission, or by the national data protection supervisory authorities of the Member States of the Union, where it falls under the competence of the flag Member State.

For São Tomé and Príncipe, the National Agency for the Protection of Personal Data (ANPDP) shall be the competent authority.

As appropriate, the European Commission or the authorities referred to in the second subparagraph shall deal with and resolve complaints from data subjects relating to the processing of their personal data under this Protocol in an effective and timely manner.

4.3 Right of redress

Each Party shall ensure that, within its legal system, a data subject who believes that an authority has failed to comply with the safeguards set out in Article 15 and this Appendix, or who believes that their personal data have been subject to a breach, may seek compensation from that authority to the extent permitted by the applicable legislation before a court of law or equivalent body.

In particular, any complaint against either authority may be addressed to the EDPS, in the case of the European Commission, and to the [third-country authority], in the case of São Tomé and Príncipe. In addition, certain complaints against either authority may be brought before the Court of Justice of the Union, in the case of the European Commission, and before São Tomé and Príncipe's courts in the case of São Tomé and Príncipe.

In the event of a dispute or a complaint lodged by a data subject in connection with the processing of their personal data against the transferring authority, the receiving authority or both

authorities, the authorities shall inform each other thereof and make every effort to resolve the dispute or complaint amicably and as soon as possible.

4.4 Exchange of information

The Parties shall keep each other informed of any complaints they receive concerning the processing of personal data under this Protocol and of their resolution.

5. Revision

The Parties shall notify each other of any changes to their legislation that have a bearing on personal data processing. Each Party shall periodically review its policies and procedures implementing Article 15 and this Appendix and their effectiveness and, at the reasonable request of either Party, the other Party shall review its personal data processing policies and procedures to verify and confirm that the safeguards provided for in Article 15 and this Appendix are implemented effectively. The results of the review shall be communicated to the requesting Party.

If necessary, the Parties shall agree on any changes needed to this Appendix in the Joint Committee.

6. Suspension of transfer

Where the Parties are unable to amicably settle disputes concerning the processing of personal data in accordance with this Appendix, the transferring Party may suspend or terminate the transfer of personal data until it considers that the matter has been satisfactorily resolved by the receiving Party. Data already transferred shall continue to be processed in accordance with this Appendix.

Appendix 7 Recovery of unduly paid funds

The procedure for the recovery of unduly paid amounts shall be as follows:

The European Commission shall formally notify São Tomé and Príncipe of its intention to recover part of the unduly paid sectoral support:

specifying the precise amount and the evidence demonstrating that the grounds for recovery provided for in Article 6(11) are present, and

inviting São Tomé and Príncipe to submit any observations within 45 days of receipt of the notification.

If the European Commission decides to pursue the recovery procedure, it shall formally notify São Tomé and Príncipe of that decision and issue an official debit note, which shall be due for payment within thirty (30) days.

Only in exceptional and duly justified cases, or in the event of error, may the European Commission change the amount or payment deadline or waive recovery, in accordance with the principles of sound financial management and proportionality.