COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 12.05.2005
COM(2005) 186 final

Proposal for a

# COUNCIL DECISION

**on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros expired on 31 December 2004. A new Protocol was initialled by both parties on 24 November 2004 setting out the technical and financial conditions governing the fishing activities of Community vessels in Comorian waters during the period 1 January 2005 to 31 December 2010 (6 years).

The new Protocol grants fishing opportunities for 40 tuna seiners and 17 surface longliners.

The financial contribution is fixed at EUR 390 000 per year, covering an annual catch of 6 000 tonnes of tuna in Comorian waters. A large portion of this amount (60%, or EUR 234 000 per year) is earmarked, under the new partnership approach fixed in the July 2004 Council guidelines on fisheries agreements, for defining and implementing the sectoral fisheries policy in the Comoros with a view to establishing responsible fishing.

While it is in keeping with the tuna agreements concluded by the Community with certain Indian Ocean countries, this new Protocol reinforces the concept of responsible, sustainable fisheries and makes it possible to promote a partnership focussing on compliance with the laws and regulations in force under Comorian fisheries policy.

New provisions have been introduced to this end: (i) the exclusivity clause, which prohibits the existence of private licences or other private arrangements outside the scope of the Agreement, (ii) VMS requirements to reinforce checks on vessels operating in Comorian waters, (iii) the social clause applicable to local seamen signed on by Community vessels, (iv) rules on taking on board observers.

Moreover, in accordance with the Council guidelines of July 2004, the new Protocol has adjusted the costs of the Agreement between the Community and shipowners. The tuna fee for fishermen has been increased from EUR 25 to EUR 35/tonne, while the Community fee has been reduced from EUR 75 to EUR 65/tonne. This reallocation, already applied in the tuna agreements in the Pacific, will gradually be applied to all tuna agreements in the Community.

On this basis, the Commission proposes that the Council adopt by Decision the draft Agreement in the form of an Exchange of Letters on the provisional application of the new Protocol pending its definitive entry into force.

A proposal for a Council Regulation on the conclusion of the new Protocol is the subject of a separate procedure.

Proposal for a

# COUNCIL DECISION

## on the conclusion of the Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) In accordance with the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros[2], the Community and the Islamic Federal Republic of the Comoros held negotiations to determine amendments or additions to be made to the Agreement at the end of the period of application of the Protocol to the Agreement.

(2) As a result of those negotiations, a new Protocol was initialled on 24 November 2004.

(3) Under that Protocol, Community fishermen enjoy fishing opportunities in the waters falling within the sovereignty or jurisdiction of the Islamic Federal Republic of the Comoros for the period from 1 January 2005 to 31 December 2010.

(4) In order to ensure uninterrupted fishing activities by Community vessels, it is essential that the new Protocol be applied as quickly as possible. For this reason, the two parties have initialled an Agreement in the form of an Exchange of Letters providing for the provisional application of the initialled Protocol as from 1 January 2005.

(5) The Agreement in the form of an Exchange of Letters should be approved, subject to the conclusion of the Protocol by the Council.

(6) The method of allocating the fishing opportunities among the Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Fisheries Agreement,

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1 OJ C […] […], p.
2 OJ L 137, 2.6.1988, p. 19.

HAS DECIDED AS FOLLOWS:

*Article 1*

The Agreement in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010 is hereby approved on behalf of the Community.

The texts of the Agreement in the form of an exchange of letters and of the Protocol are attached to this Decision.

*Article 2*

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

(a) Tuna seiners:

Spain: 21 vessels

France: 18 vessels

Italy: 1 vessel

(b) surface longliners:

Spain: 12 vessels

Portugal: 5 vessels.

If licence applications from these Member States do not cover all the fishing opportunities set out in the Protocol, the Commission may take into consideration licence applications from any other Member State.

*Article 3*

Member States whose vessels fish under this Protocol are obliged to notify the Commission of the quantities of each stock taken in the Comorian fishing zone in accordance with the arrangements laid down in Commission Regulation (EC) No 500/2001 of 14 March 2001[3].

[3] OJ L 73, 15.3.2001, p. 8.

*Article 4*

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

Done at Brussels,

*For the Council*
*The President*

**Agreement**

**in the form of an exchange of letters concerning the provisional application of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010**

A. Letter from the Government of the Comoros

Sir,

With reference to the Protocol initialled on 24 November 2004 establishing the fishing opportunities and financial contribution for the period from 1 January 2005 to 31 December 2010, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol on a provisional basis with effect from 1 January 2005, pending its entry into force in accordance with Article 13 of the said Protocol, provided that the European Community is disposed to do likewise.

This is on the understanding that the payment of the first annual financial contribution provided for in Article 2 of the Protocol is paid by 30 September 2005.

I should be grateful if you would confirm the European Community's agreement to the foregoing.

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

For the Government of the Union of the Comoros

B. Letter from the Community

Sir,

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

"With reference to the Protocol initialled on 24 November 2004 establishing the fishing opportunities and financial contribution for the period from 1 January 2005 to 31 December 2005, I have the honour to inform you that the Government of the Islamic Federal Republic of the Comoros is prepared to apply the Protocol on a provisional basis with effect from 1 January 2005, pending its entry into force in accordance with Article 13 of the said Protocol, provided that the European Community is disposed to do likewise.

This is on the understanding that the payment of the first annual financial contribution provided for in Article 2 of the Protocol is paid by 30 September 2005.

I should be grateful if you would confirm the European Community's agreement to the foregoing."

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

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

On behalf of the Council of the European Union

**Protocol**

**setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros for the period from 1 January 2005 to 31 December 2010**

*Article 1*
*Period of application and fishing opportunities*

1. For a period of six years from 1 January 2005, the fishing opportunities granted under to Article 2 of the Agreement shall be as follows:

   – tuna seiners: 40 vessels.

   – surface longliners: 17 vessels.

2. Paragraph 1 shall apply subject to Articles 4 and 5 of this Protocol.

3. Vessels flying the flag of a Member State of the European Community may fish in Comorian waters only if they are in possession of a fishing licence issued under this Protocol in accordance with the Annex hereto.

*Article 2*
*Financial contribution – Methods of payment*

1. For the period referred to in Article 1, the financial contribution referred to in Article 6 of the Agreement shall be EUR 2 340 000.

2. Paragraph 1 shall apply subject to Articles 4, 5 and 7 of this Protocol.

3. The Community shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 390 000 per year during the period of application of this Protocol.

4. If the total quantity of catches by Community vessels exceeds 6 000 tonnes per year, the total amount of the annual financial contribution shall be increased by EUR 65 for each additional tonne caught. However, the total annual amount paid by the Community shall not be more than twice the amount indicated in paragraph 3 (EUR 780 000). Where the quantities caught by Community vessels exceed the quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.

5. Payment shall be made no later than 30 September 2005 for the first year and no later than the anniversary date of the Protocol for the following years.

6. Subject to Article 6, the Comorian authorities shall have full discretion regarding the use to which this financial contribution is put.

7. The share of the financial contribution indicated in Article 7(1) of this Protocol shall be paid into an account opened by the Comorian Ministry responsible for fisheries at the Comoros central bank, *Banque Centrale des Comores*. The remaining share of

the financial contribution shall be paid into a Public Treasury account opened at the *Banque Centrale des Comores*.

*Article 3*
*Cooperation on responsible fishing – Annual scientific meeting*

1. In accordance with Article 5 of the Agreement, based on the recommendations and resolutions adopted within the Indian Ocean Tuna Commission (IOTC) and the best available scientific advice, the parties shall consult each other within the Joint Committee provided for in Article 7 of the Agreement and, where necessary and by mutual agreement, take measures to ensure the sustainable management of fisheries resources concerning the activities of Community vessels.

*Article 4*
*Voluntary review of fishing opportunities*

1. The fishing opportunities referred to in Article 1 may be increased by mutual agreement insofar as the conclusions of the scientific meeting referred to in Article 3 confirm that such an increase will not endanger the sustainable management of Comorian resources. In this case the financial contribution referred to in Article 2(1) shall be increased proportionately and *pro rata temporis*. However, the total amount of the financial contribution paid by the European Community shall not be more than twice the adjusted amount.

2. Where the quantities caught by Community vessels exceed twice the quantities corresponding to the adjusted total annual amount, the amount due for the amount exceeding that limit shall be paid the following year.

3. If the parties agree to adopt measures as referred to in Article 3 resulting in a reduction in the fishing opportunities provided for in Article 1, the financial contribution shall be reduced proportionally and *pro rata temporis*.

4. The allocation of the fishing opportunities among different categories of vessels may also be reviewed by mutual agreement between the parties, provided that any changes comply with recommendations made by the scientific meeting regarding the management of stocks liable to be affected by such redistribution. The parties shall agree on the corresponding adjustment of the financial contribution where the redistribution of fishing opportunities so warrants.

*Article5*
*New fishing opportunities*

Should Community vessels be interested in fishing activities which are not indicated in Article 1, the parties shall consult each other before any authorisation is granted by the Comorian 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 to the Annex thereto.

*Article 6*
*Suspension and review of the payment of the financial contribution on grounds of force majeure*

1. Where serious circumstances, other than natural phenomena, prevent fishing activities in Comorian waters, the European Community may suspend payment of the financial contribution provided for in Article 2(1), following consultations between the parties where possible, and provided that the Community has paid in full any amounts due at the time of suspension.

2. Payment of the financial contribution shall resume as soon as the parties find, by mutual agreement following consultations, that the circumstances preventing fishing activities are no longer present and that the situation allows a resumption of fishing activities.

3. The validity of the licences granted to Community vessels under Article 4 of the Agreement shall be extended by a period equal to the period during which fishing activities were suspended.

*Article 7*
*Support for introducing responsible fishing in Comorian waters*

1. A share of 60% of the financial contribution referred to in Article 2(1) of this Protocol shall be put towards defining and implementing a sectoral fisheries policy in the Comoros with a view to introducing responsible fishing in its waters. This contribution shall be managed in the light of objectives identified by mutual agreement between the parties, and the annual and multiannual programming to attain them.

2. For the purposes of paragraph 1, as soon as this Protocol enters into force and no later than three months after that date, the parties shall agree, within the Joint Committee provided for in Article 7 of the Agreement, on a multiannual sectoral programme and detailed implementing rules covering, in particular:

   (a) annual and multiannual guidelines for using the percentage of the financial contribution referred to in paragraph 1;

   (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible fishing and sustainable fisheries, taking account of the priorities expressed by the Comoros in its national fisheries policy and other policies relating to or having an impact on the introduction of responsible fishing and sustainable fisheries;

   (c) criteria and procedures for evaluating the results obtained each year.

3. Any proposed amendments to the multiannual sectoral programme must be approved by both parties within the Joint Committee.

4. Each year, the Comoros shall allocate the percentage of the financial contribution referred to in paragraph 1 with a view to implementing the multiannual programme. For the first year of application of the Protocol, that allocation must be notified to the

Community at the time when the multiannual sectoral programme is approved within the Joint Committee. For each year thereafter, the Comoros shall notify the Community of the allocation no later than 30 November of the previous year.

5. Where the annual evaluation of the progress made in implementing the multiannual sectoral programme so warrants, the parties shall hold consultations to agree rules for reallocating the financial contribution referred to in Article 2(1) of this Protocol with a view to bringing the actual amount of financial resources allocated to implementation of the programme into line with its results.

*Article 8*
*Disputes – Suspension of application of the Protocol*

1. Any dispute between the parties over the interpretation of this Protocol or its application shall be the subject of consultations between the parties within the Joint Committee provided for in Article 7 of the Agreement, in a special meeting if necessary.

2. Without prejudice to Article 9, application of the Protocol may be suspended at the initiative of one party if the dispute between the parties is deemed to be serious and if the consultations held within the Joint Committee under paragraph 1 have not resulted in an amicable settlement.

3. Suspension of application of the Protocol shall require the interested party to notify its intention in writing at least three months before the date on which suspension is due to take effect.

4. In the event of suspension, the parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where such 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 9*
*Suspension of application of the Protocol on grounds of non-payment*

Subject to Article 3, if the Community fails to make the payments provided for in Article 2, application of this Protocol may be suspended on the following terms:

(a) The competent Comorian authorities shall notify the European Commission of the non-payment. The latter shall make the necessary verifications and, where necessary, transmit the payment within no more than 30 working days of the date of receipt of the notification.

(b) If no payment is made and non-payment is not adequately justified within the period provided for in Article 2(5) of this Protocol, the competent Comorian authorities shall be entitled to suspend application of the Protocol. They shall inform the European Commission of such action forthwith.

(c) Application of the Protocol shall resume as soon as the payment concerned has been made.

*Article 10*
*National law*

The activities of vessels operating in Comorian waters shall be governed by the applicable law in the Comoros, unless otherwise provided in the Agreement, this Protocol and the Annex and appendices hereto.

*Article 11*
*Revision clause*

During the third year of application of this Protocol, its Annex and its appendices, the parties may review the provisions of the Protocol, the Annex and the appendices and, where necessary, make amendments. These amendments may include the reference tonnage and the flat-rate advances paid by shipowners.

*Article 12*
*Repeal*

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

*Article 13*
*Entry into force*

1. This Protocol with its Annex shall enter into force on the date on which the parties notify each other of the completion of the procedures necessary for that purpose.

2. It shall apply with effect from 1 January 2005.

# ANNEX

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

### CHAPTER I - APPLICATION FOR AND ISSUE OF LICENCES

#### *Section 1*
#### *Issue of licences*

1. Only eligible Community vessels may obtain a licence to fish in Comorian waters.

2. For a vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in the Comoros. They must be in order vis-à-vis the Comorian authorities insofar as they must have fulfilled all prior obligations arising from their fishing activities in the Comoros under fisheries agreements concluded with the Community.

3. Any Community vessel applying for a fishing licence must be represented by an agent resident in the Comoros. The name and address of that agent shall be stated in the licence application.

4. The relevant Community authorities shall present to the competent Comorian authorities an application for each vessel wishing to fish under the Agreement at least 20 days before the date of commencement of the period of validity requested.

5. Applications shall be submitted to the competent Comorian authorities on a form drawn up in accordance with the specimen in Appendix I.

6. All licence applications shall be accompanied by the following documents:

   – proof of payment of the fee for the period of validity of the licence;

   – any other documents or certificates required under the specific rules applicable to the type of vessel concerned pursuant to this Protocol.

7. The fee shall be paid into the account specified by the Comorian authorities.

8. Fees shall include all national and local charges except for port taxes and service charges.

9. Licences for all vessels shall be issued to shipowners or their agents via the Delegation of the Commission of the European Communities in Mauritius within 15 days of receipt of all the documents referred to in point 6 by the competent Comorian authorities.

10. If a licence is signed at a time when the European Commission Delegation offices are closed, it shall be sent direct to the vessel's agent and a copy shall be sent to the Delegation.

11. Licences shall be issued for a specific vessel and shall not be transferable.

12. However, at the request of the European Community and where *force majeure* is proven, a vessel's licence shall be replaced by a new licence for another vessel whose features are similar to those of the first vessel, with no further fee due.

13. The owner of the first vessel, or the agent, shall return the cancelled licence to the competent Comorian authorities via the European Commission Delegation.

14. The new licence shall take effect on the day that the vessel's owner returns the cancelled licence to the competent Comorian authorities. The Delegation of the European Commission in Mauritius shall be informed of the licence transfer.

15. The licence must be kept on board at all times, without prejudice to point 2 of Chapter VII of this Annex.

***Section 2***
***Licence conditions - fees and advance payments***

1. Licences shall be valid for a period of one year. They shall be renewable.

2. The fee shall be set at EUR 35 per tonne caught within Comorian waters.

3. Licences shall be issued once the following standard amounts have been paid to the competent national authorities:

   – EUR 3 375 per year per tuna seiner, equivalent to the fees due for 96 tonnes of tuna caught per year;

   – EUR 2 065 per year per surface longliner, equivalent to the fees due for 59 tonnes of tuna caught per year.

4. The final statement of the fees due for the fishing year shall be drawn up by the Commission of the European Communities by 31 July of the following year at the latest on the basis of the catch declarations made by each shipowner and confirmed by the scientific institutes responsible for verifying catch data in the Member States, such as the IRD (*Institut de Recherche pour le Développement*), the IEO (*Instituto Español de Oceanografía*) and the IPIMAR (*Instituto de Investigação das Pescas e do Mar)*.

5. The statement shall simultaneously be notified to the competent Comorian authorities and the shipowners.

6. Any additional payments shall be made by the shipowners to the competent Comorian authorities by 30 August of the following year at the latest, into the account referred to in point 7 of Section 1 of this Chapter.

7. However, if the amount of the final statement is lower than the advance referred to in point 3 of this Section, the resulting balance shall not be reimbursable to the shipowner.

## CHAPTER II – FISHING ZONES

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

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

## CHAPTER III – CATCH REPORTING ARRANGEMENTS

1. For the purposes of this Annex, the duration of a voyage by a Community vessel shall be defined as follows:

   – either the period elapsing between entering and leaving Comorian waters;

   – or the period elapsing between entering Comorian waters and a transhipment;

   – or the period elapsing between entering Comorian waters and a landing in the Comoros;

2. All vessels authorised to fish in Comorian waters under the Agreement shall be obliged to communicate their catches to the Comorian Ministry responsible for fisheries in the following manner:

2.1 Declarations shall include the catches made by the vessel during each trip. They shall be transmitted to the Comorian Ministry responsible for fisheries by electronic means, with a copy to the European Commission, at the end of each trip and, in all cases, before the vessel leaves Comorian waters. Electronic receipts shall be sent at once to the vessel by both addressees, with a copy to the other.

2.2 The original of the declarations sent electronically during the annual period of validity of the licence within the meaning of point 2 of Section 3 of Chapter I of this Annex shall be transmitted on a physical medium to Comorian Ministry responsible for fisheries within 45 days following the end of the last trip made during the said period. Hard copies shall be sent to the European Community at the same time.

2.3 Vessels shall declare their catches on the corresponding form in the logbook, in accordance with the specimen in Appendix 2. The words “Outside Comorian EEZ” shall be entered in the abovementioned logbook in respect of periods during which the vessel is not in Comorian waters.

2.4 The forms shall be filled in legibly and signed by the master of the ship.

3. Where the provisions set out in this Chapter are not complied with, the Government of the Comoros reserves the right to suspend the licence of the offending vessel until formalities have been completed and to apply the penalty laid down in current Comorian legislation. The European Commission shall be informed thereof.

## CHAPTER IV – EMBARKING SEAMEN

1. Each Community vessel shall take on board, at its own expense, at least one local seaman during a trip in Comorian waters.

2. Shipowners shall endeavour to take on board additional local seamen.

3. Shipowners shall be free to select the seamen they take on board their vessels from the names on a list submitted by the competent Comorian authorities.

4. The shipowner or agent shall inform the competent Comorian authorities of the names of the local seamen taken on board the vessel concerned, mentioning their position in the crew.

5. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on by EU vessels. This concerns in particular the freedom of association and the effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.

6. Local seamen's employment contracts, a copy of which shall be given to the signatories, shall be drawn up between the shipowners' agent(s) and the seamen and/or their trade unions or representatives in consultation with the competent Comorian authorities. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance.

7. Local seamen's wages shall be paid by the shipowners. They shall be fixed, before licences are issued, by mutual agreement between the shipowners or their agents and the Comorian authorities. However, the wage conditions granted to Comorian seamen shall not be lower than those applied to Comorian crews and shall under no circumstances be below ILO standards.

8. All seamen employed aboard Community vessels shall report to the master of the vessel designated on the day before their proposed embarkation date. Where a seaman fails to report at the date and time agreed for embarkation, shipowners shall be automatically absolved of their obligation to take the seaman on board.

9. Where no local seamen are taken on board for reasons other than that referred to in the previous point, Community shipowners shall be obliged to pay, for each day of the fishing trip in Comorian waters, a flat-rate amount of USD 20 per day. The payment of this amount will take place within the limits laid down in point I.2.6 of this Annex.

10. This sum shall be used for training local seamen and shall be paid into the account specified by the Comorian authorities.

## CHAPTER V - TECHNICAL MEASURES

1. Community vessels shall comply with the measures and recommendations adopted by Indian Ocean Tuna Commission (IOTC) regarding fishing gear and the technical specifications thereof and all other technical measures applicable to their fishing activities.

## CHAPTER VI – OBSERVERS

1. Vessels authorised to fish in Comorian waters under the Agreement shall take on board observers appointed by the Comorian authorities on the terms set out below.

1.1 At the request of the Comorian Ministry responsible for fisheries, tuna vessels shall take on board an observer designated by the former to check catches made in Comorian waters.

1.2 The competent Comorian authorities shall draw up a list of vessels designated to take an observer on board and a list of the appointed observers. 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 months thereafter where they have been updated.

1.3 The competent Comorian authorities shall inform the shipowners concerned, or their agents, of the name of the observer appointed to be taken on board their vessel at the time the licence is issued, or no later than 15 days before the observer's planned embarkation date.

2. The time spent on board by observers shall be one fishing trip. However, at the express request of the competent Comorian authorities, this embarkation may be spread over several trips according to the average duration of trip for a particular vessel. This request shall be made by the competent Comorian authorities when the name of the observer appointed to board the vessel in question is notified.

3. The conditions under which observers are taken on board shall be agreed between shipowners or their agents and the Comorian authorities.

4. Observers shall be taken on board at a port chosen by the shipowner at the beginning of the first voyage in Comorian waters after notification of the list of designated ships.

5. Within two weeks and giving ten days' notice, the shipowners concerned shall make known at which Comorian ports and on what dates they intend to take observers on board.

6. Where observers are taken on board in a foreign port, their travel costs shall be borne by the shipowner. Should a vessel with a Comorian observer on board leave Comorian waters, all measures must be taken to ensure the observer's return to the Comoros as soon as possible at the expense of the shipowner.

7. If the observer is not present at the time and place agreed and during the twelve hours following the time agreed, shipowners shall be automatically absolved of their obligation to take the observer on board.

8. Observers shall be treated as officers. They shall carry out the following tasks:

8.1 observe the fishing activities of the vessels;

8.2 verify the position of vessels engaged in fishing operations;

8.3 perform biological sampling in the context of scientific programmes;

8.4 note the fishing gear used;

8.5 verify the catch data for Comorian waters recorded in the logbook;

8.6 verify the percentages of by-catches and estimate the quantity of discards of species of marketable fin-fish, crustaceans and cephalopods;

8.7 report fishing data by radio, including the quantity of catches and by-catches on board.

9. Masters shall do everything in their power to ensure the physical safety and welfare of observers during performance of their duties.

10. As far as possible, observers shall be offered every facility needed to carry out their duties. The master shall give them access to the means of communication needed for the discharge of their duties, to documents directly concerned with the vessel's fishing activities, including in particular the logbook and the navigation log, and to those parts of the vessel necessary to facilitate the exercise of their tasks as observer.

11. While on board, observers shall:

11.1 take all appropriate steps to ensure that the conditions of their boarding and presence on the vessel neither interrupt nor hamper fishing operations,

11.2 respect the material and equipment on board and the confidentiality of all documents belonging to the said vessel.

12. At the end of the observation period and before leaving the vessel, observers shall draw up an activity report to be transmitted to the competent Comorian authorities, with a copy to the European Commission. They shall sign it in the presence of the master, who may add or cause to be 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.

13. Shipowners shall bear the cost of accommodating observers in the same conditions as the officers on the vessel.

14. The salary and social contributions of the observer shall be borne by the competent Comorian authorities.

15. Shipowners shall contribute USD 20 per day per vessel to the costs of scientific observation. This contribution shall be payable at the same time as, and be additional to, the fee payable by the shipowner.

## CHAPTER VII - MONITORING

1. The European Community shall keep an up-to-date list of the vessels to which a fishing licence has been issued under this Protocol. This list shall be notified to the Comorian authorities responsible for fisheries inspection as soon as it is drawn up and each time it is updated.

2. Community vessels may be included on the list referred to in the previous point upon receipt of notification of the advance payment referred to in point 3 of Section 2 of Chapter I of this Annex. The shipowner may then obtain a certified copy of this list to be kept on board instead of the fishing licence until the licence has been issued.

3. Entering and leaving the zone:

3.1 Community vessels shall notify the Comorian authorities responsible for fisheries inspection at least three hours in advance of their intention to enter or leave Comorian waters.

3.2 When notifying leaving, vessels shall also communicate their position and the volume and species in catches kept on board. This information should preferably be communicated by fax or, for vessels not equipped with a fax, by radio.

3.3 Vessels found to be fishing without having informed the competent Comorian authorities shall be regarded as vessels without a licence.

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

4. Control procedures

4.1 Masters of Community fishing vessels engaged in fishing activities in Comorian waters shall allow and facilitate boarding and the discharge of their duties by any Comorian official responsible for the inspection and control of fishing activities.

4.2. These officials shall not remain on board for longer than is necessary for the discharge of their duties.

4.3. Once the inspection has been completed, a certificate shall be issued to the master of the vessel.

5. Satellite monitoring

All Community vessels fishing under this Agreement will be subject to satellite monitoring in line with the provisions of Appendix 3. These provisions shall enter into force on the tenth day following notification by the Comorian authorities to the Delegation of the Commission of the European Communities in Mauritius of the entry into operation of the Comorian fisheries monitoring centre.

6. Boarding

6.1 The competent Comorian authorities shall inform the European Commission and the flag State, within no more than 48 hours, of all boardings of and penalties imposed on Community vessels in Comorian waters.

6.2 The European Commission shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

7. Statement of boarding

7.1 After the competent Comorian authorities have drawn up a statement, the master of the vessel shall sign it.

7.2 This signature shall not prejudice the rights of the master or any defence which he may make to the alleged infringement.

7.3 The master shall take the vessel to the port indicated by the Comorian authorities. In the case of minor infringements, the competent Comorian authorities may authorise the boarded vessel to continue its fishing activities.

8. Consultation meeting in the event of boarding

8.1 Before any measures regarding the master or the crew of the vessel or any action regarding the cargo and equipment of the vessel are considered, other than those to safeguard evidence relating to the presumed infringement, a consultation meeting shall be held, within one working day of the receipt of the above information, between the European Commission and the competent Comorian authorities, possibly attended by a representative of the Member State concerned.

8.2 At the meeting, the parties shall exchange any relevant documentation or information helping to clarify the circumstances of the established facts. The shipowner or its agent shall be informed of the outcome of the meeting and of any measures resulting from the boarding.

9. Settlement of boarding

9.1. Before any judicial procedure, an attempt shall be made to resolve the presumed infringement through a compromise procedure. This procedure shall be completed no later than three working days after the boarding.

9.2. In the event of an amicable settlement, the amount of the fine shall be determined in accordance with Comorian legislation.

9.3. If the case cannot be settled by amicable procedure and has to be brought before a competent judicial body, a bank security set to take account of the boarding costs and the fines and compensation payable by the parties responsible for the infringement shall be paid by the shipowner into a bank account specified by the competent Comorian authorities.

9.4. The bank security shall be irrevocable until the legal proceedings have been concluded. It shall be released once legal proceedings end without a conviction. Similarly, in the event of a conviction leading to a fine of less than the security lodged, the balance shall be released by the competent Comorian authorities.

9.5. The vessel shall be released and its crew authorised to leave the port:

– once the obligations arising under the amicable settlement have been fulfilled, or

– when the bank security referred to in point 19.3 has been lodged and accepted by the competent Comorian authorities, pending completion of the legal proceedings.

10. Transhipment

10.1 All Community vessels wishing to tranship catches in Comorian waters shall do so within Comorian ports.

10.2. The owners of such vessels must notify the following information to the competent Comorian authorities at least 24 hours in advance:

– the names of the transhipping fishing vessels,

– the names of the cargo vessels,

– the tonnage by species to be transhipped,

– the day of transhipment.

10.3. Transhipment shall be considered as an exit from Comorian waters. Vessels must therefore submit their catch declarations to the competent Comorian authorities and state whether they intend to continue fishing or leave the Comorian waters.

10.4. Any transhipment of catches not covered above shall be prohibited in Comorian waters. Any person infringing this provision shall be liable to the penalties provided for by Comorian law.

11. Masters of Community fishing vessels engaged in landing or transhipment operations in a Comorian port shall allow and facilitate the inspection of such operations by Comorian inspectors. Once the inspection has been completed, a certificate shall be issued to the master of the vessel.

**APPENDICES**

1. Licence application form

2. IOTC logbook

3. Provisions applicable to satellite monitoring

**Appendix 1**

**LICENCE APPLICATION FORM FOR A FOREIGN FISHING VESSEL**

Name of applicant:……...

…….

Address of applicant: ……..….

…….

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

…….

Name and address of representative (agent) in the Comoros:……

…….

Name of vessel:……

…….

Type of vessel:……

…….

Country of registry:……

…….

Port and registration number:……

…….

Vessel's external identification:……

…….

Radio call sign and frequency:……

…….

Length of vessel:……

…….

Width of vessel:……

…….

Engine type and horse power:……

…….

Gross registered tonnage of vessel:……

…….

Net registered tonnage of vessel:……

…….

Minimum crew:……

…….

Type of fishing:……

…….

Proposed catch species:……

…….

Period of validity requested:……

…….

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

Date ..... Signature.....

# Appendix 2

## ICCAT LOGBOOK FOR TUNA FISHERY

| | |
|---|---|
| | Longline |
| | Live bait |
| | Purse seine |
| | Trawl |
| | Outros (Others) |

| | | | | | | |
|---|---|---|---|---|---|---|
| Name of vessel: : ……. | Grosse tonnage: ……. | Vessel DEPARTED: Vessel RETURNED: | Month | Day | Year | Port |
| Flag country: ……. | Capacity – (M.T.): : ……. | | | | | |
| Registration No: ……. | Captain: ……. | | | | | |
| Shipowner: ……. | No of crew: ……. | | | | | |
| Address: ……. | Reporting date: ……. | | | | | |
| | (Reported by): ……. | No of days at sea: | | No of fishing days: No of sets made: | | Trip number: |

| Date | | Sector | | Surface water temp (ºC) | Fishing effort No of hooks used | Capturas (Catches) | | | | | | | | | | | | | | | | | | | | Isco usado na pesca (Bait used) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Month | Day | Latitude N/S | Longitude E/O | | | Bluefin tuna *Thunnus thynnus or maccoyi* | | Yellowfin tuna *Thunnus Albacares* | | (Bigeye tuna) *Thunnus obesus* | | (Albacore) *Thunnus alalunga* | | (Swordfish) *Xiphias gladius* | | (Strip marlin) (White marlin) *Tetraptunus audax or albidus* | | (Black marlin) *Makaira indica* | | (Sailfish) *Istiophorus albicane or platypterus* | | Skipjack *Katsuwonus pelamis* | | (Miscellaneous fish) | | Daily total (weight in kg only) | | Saury | Squid | Live bait | (Other) |
| | | | | | | No | Weigh t kg | No | Kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | No | kg | | | | |
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| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| LANDING WEIGHT (IN KG) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Notes

1 – Use one sheet per month, and one line per day.

2 - At the end of each trip, forward a copy of the log to your correspondent or to the ICCAT, Calle Corazón de María, 8, 28002 Madrid, Spain.

3 – "Day" refers to the day you set the line.

4 - Fishing area refers to the position of the boat. Round off minutes and record degree of latitude and longitude. Be sure to record N/S and E/W..

5 - The last line (landing weight) should be completed only at the end of the trip. Actual weight at the time of unloading should be recorded.

6 - All information reported herein will be kept strictly confidential.

## Appendix 3

## PROVISIONS SPECIFYING HOW DATA IN CONNECTION WITH THE SATELLITE-BASED POSITION MONITORING OF COMMUNITY FISHING VESSELS OPERATING UNDER THE FISHERIES AGREEMENT BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE ISLAMIC FEDERAL REPUBLIC OF THE COMOROS IS TO BE TRANSMITTED

In view of the fact that the Union of the Comoros plans to implement a Vessel Monitoring System (VMS) applicable to its national fleet and intends to extend this system on a non-discriminatory basis to all vessels operating in its fishing zone, and that Community vessels have been subject to satellite monitoring wherever they operate since 1 January 2000 under Community legislation, it is recommended that the national authorities of the flag States and of the Union of the Comoros should monitor by satellite vessels operating under the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros in accordance with the following arrangements:

1. For the purposes of satellite monitoring, the Comorian authorities will communicate to the Community the coordinates (latitudes and longitudes) of the Comorian fishing zone based on the attached model (Table I) before the entry into force of these provisions.

   The Comorian authorities shall transmit this information in electronic form, expressed in decimal degrees, to the WGS-84 *datum* system.

2. The parties shall exchange information on X.25 addresses and the specifications for electronic data transmission between their Control Centres in accordance with 4 to 6. Such information shall include the following where they exist: names, telephone, telex and fax numbers, and e-mail addresses (Internet or X.400) which may be used for general communications between Control Centres.

3. The position of vessels shall be determined with a margin of error of less than 500 metres and a confidence interval of 99%.

4. When a vessel which is fishing under the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros and is the subject of satellite-based monitoring pursuant to Community legislation enters a fishing zone of the Union of the Comoros, the subsequent position reports shall immediately be transmitted by the Control Centre of the flag State to the Comorian Fisheries Monitoring Centre (FMC) at intervals of no more than two hours. The messages concerned shall be identified as position reports.

5. The messages specified at 4 shall be transmitted electronically in X.25 format, without any further protocol. They shall be communicated in real time in the format set out in Table II.

6. Where the continuous satellite monitoring equipment installed on board a fishing vessel develops a technical fault or breaks down, the skipper of the vessel shall transmit the information specified at 4 to the Control Centre of the flag State in good time. In such circumstances, it will be necessary to send a position report every 12 hours while the vessel is in a fishing zone of the Union of the Comoros. The Control

Centre of the flag State or the fishing vessel shall send these messages immediately to the FMC. The defective equipment shall be repaired or replaced as soon as the vessel completes its fishing trip and, in any case, within one month at the latest. After this deadline, the vessel in question may not undertake any further fishing trips until the equipment has been repaired or replaced.

7. The Control Centres of the flag States shall monitor the movements of their vessels in Comorian waters at two-hourly intervals. If the vessels are not being monitored in accordance with the conditions laid down, the FMC shall be informed immediately and the procedure laid down at 6 shall be applicable.

8. If the FMC establishes that the flag State is not transmitting the information specified at 4, the other party shall be informed immediately.

9. The monitoring data communicated to the other party in accordance with these provisions is intended solely for the purposes of the Comorian authorities in controlling and monitoring the Community fleet fishing under the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros. Such data may not under any circumstances be communicated to other parties.

10. The parties agree to take all necessary steps to meet the message requirements laid down at 4 and 6 as soon as possible, and in no case later than six months after these provisions enter into force.

11. The parties agree to exchange upon request information on the equipment used for satellite monitoring, in order to ensure that each piece of equipment is fully compatible with the requirements of the other party for the purposes of these provisions.

12. Any dispute over the interpretation or application of these provisions shall be the subject of consultation between the parties within the Joint Committee referred to in Article 7 of the Agreement between the European Economic Community and the Islamic Federal Republic of the Comoros on fishing off the Comoros.

13. These provisions shall enter into force on the tenth day following notification by the Comorian authorities to the Delegation of the Commission of the European Communities in Mauritius of the entry into operation of the Comorian fisheries monitoring centre.

**Table I**

**Coordinates (latitudes and longitudes) of the Comorian fishing zone**

| | Coordinates in decimal degrees | | Coordinates in degrees and minutes | |
|---|---|---|---|---|
| **Ref** | **X** | **Y** | **X** | **Y** |
| **A** | | | | |
| **B** | | | | |
| **C** | | | | |
| **D** | | | | |
| **E** | | | | |
| **F** | | | | |
| **G** | | | | |
| **H** | | | | |
| **I** | | | | |
| **J** | | | | |
| **K** | | | | |
| **L** | | | | |
| **M** | | | | |
| **N** | | | | |
| **O** | | | | |
| **P** | | | | |
| **Q** | | | | |
| **R** | | | | |
| **S** | | | | |
| **T** | | | | |
| **U** | | | | |
| **V** | | | | |

**Table II**

**COMMUNICATION OF VMS MESSAGES TO THE COMOROS**

**POSITION REPORT**

| Data Element | Code | Mandatory/ Optional | Comments |
|---|---|---|---|
| Start record | SR | M | System detail – indicates start of record |
| Recipient | AD | M | Message detail – recipient. Alpha 3 ISO country code |
| From | FS | M | Message detail – sender. Alpha 3 ISO country code |
| Type of message | TM | M | Message detail – Message type "POS" |
| Radio call sign | RC | M | Vessel detail – international radio call sign of vessel |
| Contracting party internal reference number | IR O | O | Unique contracting party number as flag State ISO-3 code followed by number) |
| External registration number | XR | O | Vessel detail – number marked on side of vessel |
| Flag State | FS | O | Flag state detail |
| Latitude | LA | M | Vessel position detail – position in degrees and minutes N/S DDMM (WGS-84) |
| Longitude | LO | M | Vessel position detail - position in degrees and minutes E/W DDMM (WGS-84) |
| Dates | DA | M | Vessel position detail – date of record of UTC position (YYYYMMDD) |
| Time: | TI | M | Vessel position detail – time of record of UTC position (HHMM) |
| End record | ER | M | System detail - indicates end of record |

Character set: ISO8859.1

Each data transmission is structured as follows:

– a double slash (//) and field code indicate the start of the message;

– a single slash (/) separates the field code and the data.

Optional data elements have to be inserted between the start and end of the record.