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ANNEX 1

ANNEX

to the

Proposal for a
COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe.

Annex I
PROTOCOL
setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe

Article 1
Period of application and fishing opportunities

1. The fishing opportunities granted to European Union vessels under Article 5 of the Fisheries Partnership Agreement shall be set out, for a period of four (4) years from the date of provisional application, to allow the highly-migratory species listed in Annex 1 to the United Nations Convention on the Law of the Sea (1982) to be caught, with the exception of species protected or prohibited by ICCAT.

2. The fishing opportunities are awarded to:

   (a) 28 tuna seiners

   (b) 6 surface longliners.

3. Paragraph 1 shall apply subject to Articles 5, 6, 7 and 8 of this Protocol.

4. In accordance with Article 6 of the Agreement, fishing vessels flying the flag of a Member State of the European Union may fish in São Toméan waters only if they are in possession of a fishing authorisation (fishing licence) issued under this Protocol.

Article 2
Financial contribution–Methods of payment

1. For the period referred to in Article 1, the financial contribution referred to in Article 7 of the Fisheries Partnership Agreement shall be EUR 2 805 000.

2. The financial contribution comprises:

   (a) an annual amount for access to the EEZ of São Tomé and Príncipe of EUR 385 000 for the first three years and EUR 350 000 for the fourth year, equivalent to a reference tonnage of 7 000 tonnes per year, and

   (b) a specific amount of EUR 325 000 per year for four years to support the implementation of the sectoral fisheries policy of São Tomé and Príncipe.

3. Paragraph 1 shall apply subject to Articles 3, 4, 5, 7 and 8 of this Protocol and Articles 12 and 13 of the Fisheries Partnership Agreement.

4. The European Union shall pay the financial contribution referred to in paragraph 1 at the rate of EUR 710 000 per year during the first three years and EUR 675 000 for the fourth year, corresponding to the total of the annual amounts referred to in paragraphs 2(a) and (b).

5. If the overall annual quantity of catches by European Union vessels in São Toméan waters exceeds the annual reference tonnage referred to in point 2, the total amount of the annual financial contribution shall be increased by EUR 55 for the first three years and EUR 50 for the fourth year for each additional tonne caught. However, the total annual amount paid by the European Union shall not be more than twice the amount indicated in paragraph 2(a). Where the quantities caught by European Union vessels exceed quantities corresponding to twice the total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.

6. Payment shall be made no later than ninety (90) days after the provisional entry into force of the Protocol for the first year, and no later than the Protocol's anniversary date for the following years.

7. The São Toméan authorities shall have full discretion regarding the use to which the financial contribution referred to in paragraph 2(a) is put.

8. The financial contribution referred to in paragraph 2 of this article shall be paid into a Public Treasury account opened with the National Bank of São Tomé and Príncipe, with the financial contribution referred to in paragraph 2(b) of this article assigned to sectoral aid being made available to the Directorate for Fisheries. The São Toméan authorities shall notify the European Commission of the relevant bank account numbers on an annual basis.

Article 3

Promotion of responsible and sustainable fishing in São Toméan waters

1. No later than three (3) months after the entry into force of this Protocol, the parties shall agree, within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement, on a multiannual sectoral programme and detailed rules for its implementation, in particular:

   (a) annual and multiannual guidelines for using the financial contribution referred to in Article 2(2)(b);

   (b) the objectives, both annual and multiannual, to be achieved with a view to introducing, over time, responsible and sustainable fishing, taking account of the priorities expressed by São Tomé and Príncipe in its national fisheries policy or other policies relating to or having an impact on the introduction of responsible and sustainable fishing, particularly with regard to small-scale fishing and the monitoring, control and combating of illegal, unreported and unregulated (IUU) fishing.

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

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

3. Each year, the São Toméan authorities may decide to allocate an additional amount over and above the share of the financial contribution referred to in Article 2(2)(b) with a view to implementing the multiannual programme. This allocation shall be communicated to the European Union no later than two (2) months before the anniversary date of this Protocol.

4. Each year, the two parties shall carry out an evaluation of the progress made in implementing the multiannual sectoral programme. Where this evaluation indicates that the objectives financed directly by the part of the financial contribution referred to in Article 2(2)(b) of this Protocol have not been satisfactorily achieved, the European Commission reserves the right to reduce that part of the financial contribution with a view to aligning the amount allocated to the implementation of the programme with the results.

Article 4

Scientific cooperation on responsible fishing

1. The two parties hereby undertake to promote responsible fishing in São Toméan waters based on the principle of non-discrimination between the different fleets operating in those waters.

2. During the period covered by this Protocol, the European Union and São Tomé and Príncipe shall undertake to cooperate to monitor the state of fishery resources in the São Toméan fishing zone.

3. With regard to the region of Central Africa, the two parties undertake to promote cooperation as regards responsible fishing. The two parties undertake to comply with all recommendations and resolutions issued by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

4. In accordance with Article 4 of the Fisheries Partnership Agreement, on the basis of the recommendations and resolutions adopted within ICCAT and in the light of the best scientific advice available, the parties shall consult each other within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement to take measures to ensure sustainable management of the fish species covered by this Protocol as far as the activities of European Union vessels are concerned.

Article 5

Review of fishing opportunities and technical measures by mutual agreement

1. The fishing opportunities referred to in Article 1 may be amended by mutual agreement insofar as the recommendations and resolutions adopted by ICCAT confirm that this amendment guarantees the sustainable management of the fish species covered by this Protocol. In this case, the financial contribution referred to in Article 2(2)(a) shall be amended proportionately and *pro rata temporis*. However, the total annual amount of the financial contribution paid by the European Union shall not be more than twice the amount referred to in Article 2(2)(a).

2. Where necessary the Joint Committee may examine and adapt, by mutual agreement, the provisions governing the pursuit of fishing activities and the rules for implementing this Protocol and the Annexe hereto.

Article 6

New fishing opportunities

1. As regards the operation of fisheries not covered by this Protocol, the authorities of São Tomé and Príncipe may call on the European Union to consider the possibility of such fisheries, on the basis of the results of a scientific campaign taking account of best scientific advice endorsed by scientific experts representing both parties.

2. Depending on these results, and if the European Union expresses an interest in these fisheries, the two parties shall consult each other in the Joint Committee before the granting of an authorisation by the São Toméan 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 hereto.

Article 7

Suspension and review of the payment of the financial contribution

1. The financial contribution, as referred to in Article 2(2)(a) and (b), may be revised or suspended if one or more of the following conditions apply:

   (a) where unusual circumstances, as defined in Article 2(h) of the Fisheries Partnership Agreement, prevent fishing activities in the São Toméan EEZ;

(b) where, following significant changes in the definition and implementation of the fishery policy guidelines which led to the conclusion of this Protocol, one of the two parties requests a review of its provisions with a view to a possible amendment;

(c) if a violation of the essential and fundamental human rights laid down in Article 9 of the Cotonou Agreement is noted following the procedure provided for in Articles 8 and 96 of that Agreement.

2. The European Union reserves the right to suspend, partially or totally, payment of the specific financial contribution provided for in Article 2(2)(b) of this Protocol:

(a) if the results obtained are inconsistent with the programming, following an evaluation carried out by the Joint Committee;

(b) in the event of failure to implement this financial contribution.

3. Payment of the financial contribution shall resume after consultation and agreement by the two parties, as soon as the situation existing prior to the events mentioned in paragraph 1 has been re-established and/or if the results of the financial implementation referred to in paragraph 2 so warrant. Nevertheless, the specific financial contribution provided for in Article 2(2)(b) may not be paid out beyond a period of six (6) months after the Protocol expires.

Article 8
Suspension of the Protocol's implementation

1. The implementation 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) where unusual circumstances, as defined in Article 2(h) of the Fisheries Partnership Agreement, prevent fishing activities in the São Toméan EEZ;

(b) where, following significant changes in the definition and implementation of the fishery policy guidelines which led to the conclusion of this Protocol, one of the two parties requests a review of its provisions with a view to a possible amendment;

(c) where one of the two parties notes that there has been a violation of the essential and fundamental human rights laid down in Article 9 of the Cotonou Agreement and following the procedure provided for in Articles 8 and 96 of that Agreement;

(d) in the event of failure to pay the financial contribution provided for in Article 2(2)(a) by the European Union, for reasons other than those provided for in Article 8 of this Protocol;

(e) where there is a dispute between the two parties concerning the application or interpretation of this Protocol.

2. Implementation of the Protocol may be suspended at the initiative of one party if it has not been possible to settle the dispute between the parties in consultations held within the Joint Committee.

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

4. 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 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* to the period during which application of the Protocol was suspended.

Article 9
Applicable provisions of national law

1. The activities of European Union fishing vessels operating in São Toméan waters shall be governed by the applicable law in São Tomé and Príncipe, unless otherwise provided for in the Fisheries Partnership Agreement, this Protocol and the Annex and appendices hereto.

2. The São Toméan authorities shall inform the European Commission of any change or any new legislation relating to the fishing sector.

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

Article 10
Electronic communication

4. São Tomé and Príncipe and the European Union undertake to install as soon as possible the computer systems required for the electronic exchange of all the information and documents relating to the implementation of the Agreement.

5. The electronic form of a document will be considered equivalent to the paper version in every respect.

6. São Tomé and Príncipe and the European Union shall inform each other of any malfunction of a computer system as soon as possible. The information and documents relating to the implementation of the Agreement shall then be automatically replaced by their paper version.

Article 11
Confidentiality of data

1. São Tomé and Príncipe and the European Union undertake that all nominative data relating to EU vessels and their fishing activities obtained within the framework of the Agreement will, at all times, be processed strictly in accordance with the principles of confidentiality and data protection.

2. The two parties shall ensure that only aggregate data on fishing activities in São Toméan waters are made publicly available, in line with the relevant ICCAT provisions. Data which may be considered confidential must be used by the competent authorities exclusively for the purposes of implementing the Agreement and for fishery management, controls and monitoring.

Article 12
Duration

This Protocol and the Annex hereto shall apply for a period of four (4) years from their provisional application in accordance with Articles 14 and 15, unless notice of termination is given in accordance with Article 13.

Article 13
Termination

1. In the event of termination of the Protocol, the party concerned shall notify the other party in writing of its intention to terminate the Protocol at least six (6) months before the date on which such termination would take effect.

2. Dispatch of the notification, as referred to in the previous paragraph, shall open consultations between the parties.

Article 14
Provisional application

This Protocol shall be applied provisionally from the date of its signature but no earlier than 13 May 2014.

Article 15
Entry into force

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.

ANNEX TO THE PROTOCOL

CONDITIONS GOVERNING FISHING ACTIVITIES BY EUROPEAN UNION VESSELS IN SÃO TOMÉ AND PRÍNCIPE'S FISHING ZONE

CHAPTER 1 - APPLICATION AND ISSUE FORMALITIES FOR FISHING AUTHORISATIONS

Section 1
Fishing authorisations

Conditions for obtaining a fishing authorisation

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

2. For a vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in São Tomé and Príncipe. They must be in order vis-à-vis the São Toméan 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 European Union. Furthermore, they must comply with the provisions of Regulation (EC) No 1006/2008[1] on fishing authorisations.

3. Any European Union vessel applying for a fishing authorisation must be represented by an agent resident in São Tomé and Príncipe. The name and address of that agent may be stated in the fishing authorisation application.

Application for a fishing authorisation

4. The relevant European Union authorities shall submit (by electronic means) to the Ministry responsible for fisheries in São Tomé and Príncipe, with a copy to the European Union's Delegation in Gabon, an application for each vessel wishing to fish under the Fisheries Partnership Agreement at least fifteen (15) working days before the date of commencement of the period of validity requested. The originals are to be sent directly by the relevant European Union authorities to São Tomé e Principe with a copy to the European Union Delegation to Gabon.

5. Applications shall be submitted to the Ministry responsible for fisheries on a form drawn up in accordance with the specimen in Appendix 1.

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

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

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

7. The fee shall be paid into the account specified by the São Toméan authorities in accordance with Article 2(8) of the Protocol.

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

Issue of fishing licences

9. Fishing authorisations for all vessels shall be issued to vessel owners or their agents via the European Union Delegation to Gabon within 15 working days of receipt of all the documents referred to in point 6 by the Ministry responsible for fisheries in São Tomé and Príncipe. At the same time, in order to not delay the possibility of fishing in the area, a copy of the 'fishing permit' will be sent to the vessel owner electronically. This copy may be used for

[1] OJ L 286, 29.10.2008, p. 33.

a maximum period of 60 days after the date on which the licence was issued. During this period, the copy shall be considered equivalent to the original.

10. Fishing authorisations shall be issued for a given vessel and shall not be transferable.

11. However, at the request of the European Union and where force majeure is proven, a vessel's fishing authorisation shall be replaced by a new fishing authorisation for another vessel of the same category as the first vessel, with no further fee due. In this case, the calculation of the catch levels to determine whether an additional payment should be made shall take account of the sum of the total catches of the two vessels.

12. The owner of the first vessel, or his agent, shall return the cancelled fishing authorisation to the Ministry responsible for fisheries in São Tomé and Príncipe via the European Union Delegation to Gabon.

13. The new fishing authorisation shall take effect on the day on which the cancelled fishing authorisation is returned to the Ministry responsible for fisheries in São Tomé and Príncipe. The European Union Delegation to Gabon shall be informed of the transfer of the fishing authorisation.

14. The fishing authorisation must be held on board at all times, without prejudice to the provisions of point 9 of this Section.

Section 2
Fishing authorisation conditions–fees and advance payments

1. Fishing authorisations shall be valid for a period of one year.

2. The fees payable for tuna seiners and surface longliners, in EUR per tonne caught in the fishing zone for São Tomé and Príncipe, is established as being the following:

EUR 55 for the first and second years of application;

EUR 60 for the third year of application;

EUR 70 for the fourth year of application.

3. Fishing authorisations shall be issued once the following flat-rate fees have been paid to the competent national authorities:

- For tuna seiners:

  - EUR 6 930 per vessel, equivalent to fees due for 126 tonnes per year during the first and second years of application of the Protocol;

  - EUR 6 960 per vessel, equivalent to fees due for 116 tonnes per year during the third year of application of the Protocol;

  - EUR 7 000 per vessel, equivalent to fees due for 100 tonnes per year during the fourth year of application of the Protocol.

- For surface longliners:

  - EUR 2 310 per vessel, equivalent to fees due for 42 tonnes per year during the first and second years of application of the Protocol;

  - EUR 2 310 per vessel, equivalent to fees due for 38.5 tonnes per year during the third year of application of the Protocol;

  - EUR 2 310 per vessel, equivalent to fees due for 33 tonnes per year during the fourth year of application of the Protocol.

4. The final statement of the fees due for year n shall be drawn up by the European Commission no later than sixty (60) days after the anniversary date of the Protocol in year

n+1 on the basis of the catch declarations made by each vessel owner 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), IEO (Instituto Español de Oceanografía) and IPMA (Instituto Português do Mar e da Atmosfera), via the European Union Delegation to Gabon.

5. This statement shall be sent simultaneously to the Ministry responsible for fisheries in São Tomé and Príncipe and to the vessel owners.

6. Any additional payments (for quantities caught in excess of the tonnage mentioned in paragraph 4 of this Section) shall be made by the vessel owners to the competent São Toméan national authorities no later than three (3) months after the anniversary date of the Protocol in the year n+1, into the account referred to in point 7 of Section 1 of this Chapter, on the basis of the amount per tonne indicated in paragraph 2 of this Section (EUR 55, 60 or 70 depending on the year).

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 vessel owner.

CHAPTER II–FISHING ZONES

1. European Union vessels operating in São Toméan waters under this Protocol may carry out their fishing activities in waters beyond 12 nautical miles from the base lines in the case of tuna seiners and surface longliners.

2. The coordinates for the São Toméan Exclusive Economic Zone are those named in the notification by São Tomé and Príncipe to the United Nations on 7 May 1998[2].

3. Without exception, all fishing activity in the zone intended for joint exploitation by São Tomé and Príncipe and Nigeria, delimited by the coordinates set out in Appendix 3, shall be prohibited.

CHAPTER III–MONITORING AND SURVEILLANCE

Section 1
System for recording catches

1. The masters of all vessels operating in São Toméan waters under this Protocol shall be required to notify their catches to the Ministry responsible for fisheries in São Tomé and Príncipe, so as to allow monitoring of the quantities caught, which shall be validated by the competent scientific institutes in accordance with the procedure referred to in point 4 of Section 2 of Chapter I of this Annex. Catches shall be notified as follows:

1.1 European Union vessels operating in São Toméan waters under this Protocol must complete a catch declaration, a model of which is included in Appendix 2 and which reflects at all points the information contained in the logbook. A copy of the catch declaration shall be sent, preferably by e-mail, each week to the São Toméan Fisheries Monitoring Centre (FMC) and at the time that it leaves the São Toméan fishing zone.

1.2 The masters of the vessels shall send copies of the logbook to the Ministry responsible for fisheries in São Tomé and Príncipe and to the scientific institutes specified in point 4 of Section 2 of Chapter I, no later than 14 days after landing has been completed for the journey concerned.

[2] http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/losic/losic9ef.pdf

2. Each day the master shall record in the catch declaration the quantity of each species, identified by its FAO alpha 3 code, caught and kept on board, expressed in kilograms of live weight or, where necessary, the number of individual fish. For each main species, the master shall also include the bad catch. The master shall also record each day in the catch declaration the quantities of each species thrown back into the sea, expressed in kilograms of live weight or, where necessary, the number of individual fish.

3. Catch declarations shall be completed legibly and signed by the master of the vessel.

4. Where the provisions set out in this Chapter are not complied with, the Government of São Tomé and Príncipe may suspend the fishing authorisation of the offending vessel until formalities have been completed and impose on the vessel owner the penalty laid down in current São Toméan legislation. The European Commission and the flag Member State shall immediately be informed thereof.

5. The two parties declare their shared willingness to ensure a transition to an electronic system for declaring catches based on the technical characteristics laid down in Appendix 5. The parties agree to determine together the transition arrangements with the aim of the system becoming operational as of 15 July 2015.

Section 2
Communication of catches: entering and leaving São Toméan waters

1. European Union vessels operating in São Toméan waters under this Protocol shall notify the competent São Toméan authorities, at least three (6) hours in advance, of their intention to enter or leave São Toméan waters.

2. When notifying entry into/exit from São Tomé and Príncipe's EEZ, vessels shall, 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 necessary, the number of individual fish, without prejudice to the provisions of Section 2. This information shall be communicated by e-mail or fax to the addresses to be notified by the São Toméan authorities.

3. Vessels found to be fishing without having informed the competent São Toméan authorities shall be regarded as vessels without a fishing authorisation and shall be subject to the consequences provided for under national law.

4. The e-mail address, fax and telephone numbers and radio coordinates shall be annexed to the fishing authorisation.

Section 3
Transhipments and landings

1 All European Union vessels operating in São Toméan waters under this Protocol which carry out transhipments in São Toméan waters shall do so off São Toméan ports.

The owners of these vessels or their agents wishing to conduct a transhipment or landing must notify the competent São Toméan authorities, at least 24 hours in advance, of the following:

the names of the fishing vessels involved in the transhipment or landing;

the name of the cargo vessel;

the tonnage by species to be transhipped or landed;

the day of transhipment or landing;

the destination of the transhipped or landed catches.

2. Transhipment is authorised only in the following areas: Fernão Dias, Neves and Ana Chaves.

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

4. Any transhipment or landing of catches not covered by the above provisions shall be prohibited in São Toméan waters. Any person infringing this provision shall be liable to the penalties provided for by São Toméan law.

Section 4
Satellite-based vessel monitoring system (VMS)

1. Vessel position messages–VMS system

Whilst they are in the São Toméan zone, EU vessels holding a licence must be equipped with a satellite monitoring system (Vessel Monitoring System – VMS) to enable automatic and continuous communication of their position, at all times, to the fishing control centre (Fisheries Monitoring Centre–FMC) of their flag State.

Each position message must contain:

a) the vessel identification,

b) the most recent geographical position of the vessel (longitude, latitude), with a position error of less than 100 metres, and with a confidence interval of 99%;

c) the date and time the position is recorded;

d) the speed and the course of the vessel.

Each position message must be configured in accordance with the format set out in Appendix 4 to this Annex.

The first position recorded after entry into the São Toméan zone shall be identified by the code ‘ENT’. All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after departure from the São Toméan zone, which shall be identified by the code 'EXI'.

The FMC of the flag State shall ensure the automatic processing and, if necessary, the electronic transmission of the position messages. The position messages shall be recorded in a secure manner and kept for a period of three years.

2. Transmission by the vessel in the event of breakdown of the VMS

The master shall ensure at all times that the VMS of his vessel is fully operational and that the position messages are correctly transmitted to the FMC of the flag State.

In the event of breakdown, the VMS of the vessel shall be repaired or replaced within ten days. After that period, the vessel shall no longer be authorised to fish in the São Toméan fishing zone.

Vessels fishing in the São Toméan zone with a defective VMS must communicate their position messages by e-mail, radio or fax to the FMC of the flag State, at least every four hours, and must provide all the compulsory information.

3. Secure communication of position messages to São Tomé and Príncipe

The FMC of the flag state shall automatically send the position messages of the vessels concerned to the FMC of São Tomé and Príncipe. The FMC of the flag State and São Tomé and Príncipe shall exchange their contact e-mail addresses and inform each other without delay of any change to these addresses.

The transmission of position messages between the FMCs of the flag State and São Tomé and Príncipe shall be carried out electronically using a secure communication system.

The FMC of São Tomé and Príncipe shall inform the FMC of the flag State and the European Union of any interruption in the reception of consecutive position messages from a vessel holding a licence, where the vessel concerned has not notified its exit from the zone.

4. Malfunction of the communication system

São Tomé and Príncipe shall ensure the compatibility of its electronic equipment with that of the FMC of the flag State and inform the European Union immediately of any malfunction as regards the sending and receiving of position messages with a view to finding a technical solution as soon as possible.

The master shall be considered responsible for any proven tampering with a vessel's VMS aimed at disturbing its operation or falsifying its position messages. Any infringements shall be subject to the penalties provided for by current São Toméan legislation.

5. Revision of the frequency of position messages

On the basis of documentary evidence proving an infringement, São Tomé and Príncipe may ask the FMC of the flag State, copying in the EU, to reduce the interval for sending position messages from a vessel to every thirty minutes for a set period of investigation. This documentary evidence must be sent without delay by São Tomé and Príncipe to the FMC of the flag State and the EU. The FMC of the flag state shall immediately send the position messages to São Tomé and Príncipe at the new frequency.

When the period of investigation ends, São Tomé and Príncipe shall immediately inform the FMC of the flag State and the EU. and subsequently inform them of any follow-up.

CHAPTER IV–SIGNING-ON OF SEAMEN

1. Owners of tuna vessels and surface longliners shall employ ACP nationals, subject to the following conditions and limits:
   - for the fleet of tuna seiners, at least 20% of the seamen signed on during the tuna-fishing season in the fishing zone of the third country shall be of São Toméan or possibly ACP origin;
   - for the fleet of surface longliners, at least 20% of the seamen signed on during the fishing season in the fishing zone of the third country shall be of São Toméan or possibly ACP origin.
2. Vessel owners shall endeavour to sign on additional seamen of São Toméan origin.
3. Vessel owners shall be free to select the seamen they take on board their vessels from the names on a list of able and qualified seamen available from the São Toméan authorities and vessel owners' agents.
4. The vessel owner or his agent shall inform the competent São Toméan authorities of the names of the 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 European Union 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. The employment contracts of São Toméan and ACP seamen, a copy of which shall be given to the Ministry of Labour, the Ministry of Fisheries and the signatories of the contracts, shall be drawn up between the vessel owners' agent(s) and the seamen and/or their trade unions or representatives. These contracts shall guarantee the seamen the social security cover applicable to them, in accordance with the applicable legislation, including life assurance and sickness and accident insurance.

7. The wages of the seamen shall be paid by the vessel owners. They shall be fixed by mutual agreement between the vessel owners or their agents and the seamen and/or their trade unions or representatives. However, the wage conditions granted to the seamen shall not be lower than those applied to crews from their respective countries and shall, under no circumstances, be below ILO standards.

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

CHAPTER V–OBSERVERS

1. European Union vessels operating in São Toméan waters under this Protocol shall take on board observers appointed by the Ministry responsible for fisheries in São Tomé and Príncipe on the terms set out below:

   1.1 At the request of the competent São Toméan authorities, European Union vessels shall take on board an observer designated by the former to check catches made in São Toméan waters.

   1.2 The competent São Toméan 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 (3) months thereafter where they have been updated.

   1.3 The competent São Toméan authorities shall inform the European Union Delegation to Gabon and the vessel owners concerned, preferably by e-mail, of the name of the observer appointed to be taken on board their vessel at the time the fishing authorisation is issued, or no later than 15 days before the observer's planned boarding date.

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

3. The conditions under which the observer is taken on board shall be agreed between the vessel owner or his agent and the competent authority.

4. The observer shall board and leave the vessel at a port chosen by the vessel owner. Boarding shall take place at the beginning of the first voyage in São Toméan waters after notification of the list of designated vessels.

5. Within two weeks and giving ten days' notice, the vessel owners 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.

6. Where the observer is taken on board in a country other than São Tomé and Príncipe, his travel costs shall be borne by the vessel owner. Should a vessel with an observer on board

leave São Tomé and Príncipe's fishing zone, all measures must be taken to ensure the observer's return to São Tomé and Príncipe as soon as possible at the expense of the vessel owner.

7. If the observer is not present at the time and place agreed or within twelve hours of the time agreed, the vessel owner shall be automatically absolved of his obligation to take the observer on board.

8. The observer shall be treated on board as an officer. When the vessel is operating in São Toméan waters, he 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 note the fishing gear used;

8.4 verify the catch data for São Toméan waters recorded in the logbook;

8.5 verify the percentages of by-catches and estimate the quantity of discards of species of marketable fish;

8.6 report fishing data, including the quantity of catches and by-catches on board, to his competent authority by any appropriate means.

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

10 The observer shall be offered every facility needed to carry out his duties. The master shall give him access to the means of communication needed for the discharge of his 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 his tasks.

11. While on board, the observer shall:

11.1 take all appropriate steps to ensure that the conditions of his boarding and presence on board 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 vessel.

12. At the end of the observation period and before leaving the vessel, the observer shall draw up an activity report to be transmitted to the competent São Toméan authorities, with a copy to the European Commission. He 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. The vessel owner shall bear the cost of providing board and accommodation for the observer in the same conditions as for officers, within the confines of the practical possibilities offered by the vessel.

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

CHAPTER VI–CONTROL AND INSPECTION

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

2. Inspection procedures:

Inspections at sea, in or off port within the São Toméan fishing zone on European Union vessels having been granted a licence shall be carried out by vessels and inspectors from São Tomé and Príncipe, clearly identifiable as assigned to the control of fisheries.

Before boarding, the São Toméan inspectors shall inform the European Union vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

The São Toméan inspectors shall only stay on board the European Union vessel for the time necessary to carry out tasks linked to the inspection. They shall carry out the inspection in a way which minimises the impact on the vessel, its fishing activity and cargo.

São Tomé and Príncipe may authorise the European Union to participate in the inspection at sea as an observer.

The master of the European Union vessel shall facilitate the boarding of the São Toméan inspectors and their work on board.

At the end of each inspection, the São Toméan inspectors shall draw up an inspection report. The master of the European Union vessel has the right to include his comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the European Union vessel.

The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of an infringement. If the master refuses to sign this document, he shall specify his reasons in writing and the inspector shall write 'refusal to sign' on it. The São Toméan inspectors shall issue a copy of the inspection report to the master of the European Union vessel before leaving the vessel. São Tomé and Príncipe shall send a copy of the inspection report to the European Union within a period of seven working days after the inspection.

CHAPTER VII – INFRINGEMENTS

1. Handling of infringements:

Any infringement committed by an EU vessel holding a licence in accordance with the provisions of this Annex must be referred to in an inspection report. That report shall be sent to the European Union and to the flag State within 24 hours.
The signature of the inspection report by the master shall be without prejudice to the vessel owner's right of defence in respect of an infringement procedure. The master of the vessel shall cooperate while the inspection procedure is being carried out.

2. Detention of a vessel – Information meeting:

Where permitted under current São Toméan legislation regarding the infringement, any EU vessel having committed an infringement may be forced to cease its fishing activity and, where the vessel is at sea, to return to a São Toméan port.

São Tomé and Príncipe shall notify the European Union within 24 hours of any detention of a European Union vessel holding a licence. That notification shall be accompanied by documentary evidence of the infringement.

Before taking any measure against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, São Tomé and Príncipe shall organise, at the request of the European Union, within one working day of notification of the detention of the vessel, an

information meeting to clarify the facts which have led to the vessel being detained and to explain what further action may be taken. A representative of the flag State of the vessel may attend this information meeting.

3. Penalties for infringements–Compromise procedure:

The penalty for the infringement shall be set by São Tomé and Príncipe according to the provisions of current national legislation.

Where settling the infringement involves legal proceedings, before these are launched, and provided that the infringement does not involve a criminal act, a compromise procedure shall be undertaken between São Tomé and Príncipe and the European Union in order to determine the terms and level of the penalty. A representative of the flag State of the vessel and of the European Union may participate in that compromise procedure. The compromise procedure shall finish at the latest three days after notification of the vessel's detention.

4. Legal proceedings – Bank security

If the compromise procedure fails and the infringement is brought before the competent court, the owner of the vessel which 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 linked to the detention of the vessel, the estimated fine and any compensation. The bank security may not be recovered until the legal proceedings have been concluded.

The bank security shall be released and returned to the vessel owner without delay after the judgment has been delivered:

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.

São Tomé and Príncipe shall inform the European Union of the outcome of the legal proceedings within seven days of the judgment being delivered.

5. Release of the vessel and the crew:

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

APPENDICES

1 – Fishing authorisation application form

2 – Catch declaration form

3– Coordinates of the zone in which fishing is prohibited

4– Format of VMS position message

5– Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

Appendix 1

SÃO TOMÉ AND PRÍNCIPE - EUROPEAN UNION FISHERIES AGREEMENT

FISHING AUTHORISATION APPLICATION FORM

I - APPLICANT

1. Name of vessel owner: .....
2. Address of vessel owner: .....
2. Name of vessel owner's association or agent: .....
3. Address of vessel owner's association or agent: .....
4. Telephone: ..... Fax: ..... Email: ……
5. Master's name: ..... Nationality: ..... E-mail: ……

II – VESSEL AND IDENTIFICATION

1. Vessel name: .....
2. Flag State: ....
3. External registration number: …….....
4. Port of registry: ……. MMSI: IMO number:
5. Date on which current flag was acquired: ...../...../..... Previous flag, if any: ……...
6. Year and place of construction: ...../...../..... at.……..... Radio call sign: .....
7. Call frequency: ……..... Vessel Satellite Phone No.: ……..……..……
8. Hull construction material: Steel ☐ Wood ☐ Polyester ☐ Other ☐ …….

III - TECHNICAL CHARACTERISTICS AND EQUIPMENT

1. Overall length: ..... Width: .....
2. Tonnage (expressed in GT): ..... Net tonnage: …….……
3. Power of main engine in kW: ..... Make: ..... Type: ….....
4. Type of vessel: ☐ Tuna Seiner ☐ Long-liner
5. Fishing gear types: ..... ……
6. Fishing zones: …… Target species …….
7. Designated port for landing operations: …….……
8. Crew complement: .....
9. Method of preservation on board: Cooling ☐ Refrigeration ☐ Mixed ☐ Freezing ☐
10. Freezing capacity in tonnes/24 hours: .....Hold capacity: ..... Number: .....
11. VMS transponder:

    Manufacturer: …… Model: ……. Serial number: ……

    Software version: ..... Satellite operator: ……..

I, the undersigned, certify that the information provided in this application is true and given in good faith.

Done at....., on .....

Signature of applicant .....

CATCH DECLARATION FORM

	Longline
	Live bait
	Purse seine
	Trawl
	Other

Vessel name: ……	Gross tonnage: ……		Month	Day	Year	Port	
Flag State: ……	Capacity (TM): ……	Vessel DEPARTED:					
Registration No: ……	Master: ……						
Vessel owner: ……	No of crew: ……	Vessel RETURNED:					
Address: ……	Reporting date: ……						
		No of days at sea:		No of fishing days:		Trip number:	
				No of sets made:			

Date		Sector		Surface water temp (ºC)	Fishing effort No of hooks used	Catches																		– Isco usado na pesca (Bait used)			
Month	Day	Latitude N/S	Longitude E/W			Bluefin tuna *Thunnus thynnus or maccoyii*		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 albicans or platypterus*		(Skipjack) *Katsuwonus pelamis*		(Miscellaneous fish)		Daily total (weight in kg only)		Saury	Squid	Live bait	(Other)
						No	Weight kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg	No	kg				

LANDING WEIGHT (IN KG)																														

Comments

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

2 – 'Day' refers to the day you set the line.

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

4 - 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.

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

Appendix 3

Coordinates of the zone in which fishing is prohibited

Latitude				Longitude			
Degrees	**Minutes**	**Seconds**		**Degrees**	**Minutes**	**Seconds**	
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 4

FORMAT OF VMS POSITION MESSAGES

Data element	Code	Mandatory/ Optional	Remarks
Start 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–Message type (ENT, POS, EXI)
Radio call sign (IRCS)	RC	M	Vessel detail–Vessel international radio call sign (IRCS)
Contracting Party internal reference number	IR	O	Vessel detail–Unique contracting party number Alpha-3 code (ISO-3166) followed by number
External registration number	XR	M	Vessel detail–Number on side of vessel (ISO 8859.1)
Latitude	LT	M	Vessel position detail–Position in degrees and decimal degrees N/S DD.ddd (WGS84)
Longitude	LG	M	Vessel position detail–Position in degrees and decimal degrees E/W DD.ddd (WGS84)
Course	CO	M	Vessel course 360° scale
Speed	SP	M	Vessel speed in tenths of knots
Date	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 indicating end of record

Each data transmission is structured as follows:

Characters used must comply with the ISO 8859.1 standard.

A double slash (//) and the characters ‘SR’ indicate the start of a message.

Each data element is identified by its code and separated from the other data elements by a double slash (//).

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

The ‘ER’ code followed by a double slash (//) indicates the end of the message.

The optional data elements must be inserted between the start and the end of the message.

Appendix 5

Guidelines for managing and implementing the electronic reporting system for fishing activities (ERS)

General provisions

(1) All EU fishing vessels must be equipped with an electronic system, hereinafter referred to as 'ERS system', capable of recording and transmitting data relating to the vessel's fishing activity, hereinafter referred to as 'ERS data', whenever the vessel is operating in the waters of São Tomé and Príncipe.

(2) An EU vessel that is not equipped with an ERS, or whose ERS is not working, is not authorised to enter São Toméan waters in order to engage in fishing activities.

(3) ERS data shall be transmitted in accordance with the procedures of the vessel's flag State, i.e. they shall firstly be sent to the Fisheries Monitoring Centre (hereinafter: FMC) of the flag State which will make them automatically available to the São Toméan FMC.

(4) The flag State and São Tomé and Príncipe shall ensure that their FMCs have the necessary IT equipment and software to automatically transmit ERS data in xml format, [available via http://ec.europa.eu/cfp/control/codes/index_en.htm] and shall have a backup procedure in place capable of saving and storing ERS data in a format which will be computer-readable for at least three years.

(5) Any change or update to this format shall be identified and dated and must be operational six (6) months after its introduction.

(6) ERS data must be transmitted using the electronic means of communication operated by the European Commission on behalf of the EU, referred to as the DEH (Data Exchange Highway).

(7) The flag State and São Tomé and Príncipe shall each designate an ERS correspondent who will act as the point of contact.

   (a) ERS correspondents shall be designated for a minimum period of six (6) months.

   (b) The FMCs of the flag State and São Tomé and Príncipe shall notify one another of the contact details (name, address, telephone number, fax, e-mail address) of their ERS correspondent, before the supplier starts production of the ERS.

   (c) Any changes to the contact details of the ERS correspondent must be notified immediately.

Producing and communicating ERS data

(8) EU fishing vessels must:

   (a) Communicate on a daily basis ERS data for each day spent in São Toméan waters;

   (b) record the quantity of each species caught and kept on board as target species or by-catch, or discarded, for each fishing operation;

   (c) declare the bad catch of each species specified in the fishing authorisation issued by São Tomé and Príncipe;

   (d) identify each species by its FAO 3-alpha code;

(e) express quantities in kilograms of live weight or, where necessary, the number of individual fish;

(f) record, in the ERS data, the transhipped and/or unloaded quantity of each species;

(g) record in the ERS data, every time São Toméan waters are entered (COE message) or exited (COX message), a specific message containing the quantities held on board at the time of passing for each species specified in the fishing authorisation issued by São Tomé and Príncipe;

(h) transmit ERS data on a daily basis to the FMC of the flag State, according to the format referred to in paragraph 3 above, by 23:59 UTC at the latest.

(9) The master is responsible for the accuracy of the ERS data recorded and sent.

(10) The FMC of the flag State shall send the ERS data automatically and without delay to the São Toméan FMC.

(11) The FMC of São Tomé and Príncipe shall confirm that it has received the ERS data by means of a return message and shall handle all ERS data confidentially.

Failure of the on-board ERS and/or transmission of ERS data between the vessel and the FMC of the flag State

(12) The flag State shall immediately inform the master and/or owner of a vessel flying its flag, or their agent, of any technical failure of the ERS installed on board or any breakdown in transmission of ERS data between the vessel and the FMC of the flag State.

(13) The flag State shall inform São Tomé and Príncipe of the failure detected and the corrective measures taken.

(14) In the event of a breakdown in the on-board ERS, the master and/or owner shall ensure the ERS is repaired or replaced within ten days. If the vessel makes a call at a port within those ten days, it may only resume fishing activity in São Toméan waters once its ERS is in perfect working order, unless São Toméan authorities allow otherwise.

(15) Following a technical failure in its ERS, a fishing vessel may not leave port until:

(a) its ERS is in working order again, to the satisfaction of the flag State and São Tomé and Príncipe, or

(b) it receives authorisation from the flag State. In the latter case, the flag State shall inform São Tomé and Príncipe of its decision before the vessel leaves.

(16) Any EU vessel operating in São Toméan waters with a faulty ERS must transmit all ERS data on a daily basis and by 23:59 UTC at the latest to the FMC of the flag State by any other available means of electronic communication accessible by the São Toméan FMC.

(17) ERS data which could not be made available to São Tomé and Príncipe via the ERS owing to a failure shall be transmitted by the FMC of the flag State to the FMC of São Tomé and Príncipe by another mutually agreed form of electronic communication. This alternative transmission shall be considered a priority, it being understood that it will not be possible to comply with the transmission deadlines usually applicable.

(18) If the FMC of São Tomé and Príncipe does not receive ERS data from a vessel for three consecutive days, São Tomé and Príncipe may instruct the vessel to immediately call at a port of São Tomé and Príncipe's choosing in order to investigate.

FMC failure – ERS data not received by São Toméan FMC

(19) In the event that ERS data are not received by an FMC, its ERS correspondent shall immediately inform the ERS correspondent for the other FMC, and if necessary they shall work together to resolve the problem.

(20) Before the ERS becomes operational, the FMC of the flag State and the São Toméan FMC shall mutually agree on the alternative means of electronic communication to be used in order to transmit ERS data in the event of an FMC failure, and shall immediately inform one another of any changes.

(21) If the São Toméan FMC reports that ERS data have not been received, the FMC of the flag State shall identify the causes of the problem and take appropriate measures in order to resolve the problem. The FMC of the flag State shall inform the São Toméan FMC and the EU of the outcome of the measures taken within 24 hours of recognising the failure.

(22) If more than 24 hours is required in order to resolve the problem, the FMC of the flag State shall immediately transmit the missing ERS data to the São Toméan FMC via one of the alternative means of electronic communication referred to in point 17.

(23) São Tomé and Príncipe shall inform its competent monitoring services (MCS) so that EU vessels are not considered by the São Toméan FMC to be in breach of their obligations for not transmitting ERS data, owing to a failure in one of the FMCs.

FMC maintenance

(24) Planned maintenance of an FMC (maintenance programme) which may affect the exchange of ERS data must be notified at least 72 hours in advance to the other FMC, indicating, where possible, the date and duration of the maintenance work. Information about unplanned maintenance work shall be sent to the other FMC as soon as possible.

(25) During the maintenance work, the provision of ERS data may be put on hold until the system is operational again. The relevant ERS data shall be made available immediately after the maintenance work has been completed.

(26) If the maintenance work takes more than 24 hours, ERS data shall be sent to the other FMC using one of the alternative means of electronic communication referred to in point 17.

(27) São Tomé and Príncipe shall inform its competent monitoring services (MCS) so that EU vessels are not considered by the São Toméan FMC to be in breach of their obligations for not transmitting ERS data, owing to the maintenance of an FMC.