

FISHERIES PARTNERSHIP AGREEMENT
between the European Community and the Republic of Cape Verde

THE EUROPEAN COMMUNITY, hereinafter referred to as 'the Community',

of the one part, and

THE REPUBLIC OF CAPE VERDE, hereinafter referred to as 'Cape Verde',

of the other part,

hereinafter referred to as 'the Parties',

CONSIDERING the close working relationship between the Community and Cape Verde, particularly in the context of the Cotonou Agreement, and their mutual desire to intensify that relationship,

CONSIDERING the desire of the two parties to promote the sustainable exploitation of fisheries resources by means of cooperation,

HAVING REGARD TO the United Nations Convention on the Law of the Sea,

RECOGNISING that Cape Verde exercises its sovereign rights or jurisdiction over a zone extending up to 200 nautical miles from the baselines in accordance with the United Nations Convention on the Law of the Sea,

DETERMINED to apply the decisions and recommendations of the International Commission for the Conservation of Atlantic Tunas, hereinafter referred to as 'ICCAT',

AWARE of the importance of the principles established by the Code of conduct for responsible fisheries adopted at the FAO Conference in 1995,

DETERMINED to cooperate, in their mutual interest, in promoting the introduction of responsible fisheries to ensure the long-term conservation and sustainable exploitation of marine living resources,

CONVINCED that such cooperation must take the form of initiatives and measures which, whether taken jointly or separately, are complementary and ensure consistent policies and synergy of effort,

INTENDING, to these ends, to commence a dialogue on the sectoral fisheries policy adopted by the Government of Cape Verde and to identify the appropriate means of ensuring that this policy is effectively implemented and that economic operators and civil society are involved in the process,

DESIROUS of establishing terms and conditions governing the fishing activities of Community vessels in Cape Verde waters and Community support for the introduction of responsible fishing in those waters,

RESOLVED to pursue closer economic cooperation in the fishing industry and related activities through the setting up and development of joint enterprises involving companies from both parties,

HEREBY AGREE AS FOLLOWS:

Article 1

Scope

This Agreement establishes the principles, rules and procedures governing:

- economic, financial, technical and scientific cooperation in the fisheries sector with a view to promoting responsible fishing in Cape Verde waters to ensure the conservation and sustainable exploitation of fisheries resources and develop the Cape Verde fisheries sector,
- the conditions governing access by Community fishing vessels to Cape Verde waters,
- cooperation on the arrangements for policing fisheries in Cape Verde waters with a view to ensuring that the above rules and conditions are complied with, that the measures for the conservation and management of fish stocks are effective and that illegal, undeclared and unregulated fishing is prevented,
- partnerships between companies aimed at developing economic activities in the fisheries sector and related activities, in the common interest.

Article 2

Definitions

For the purposes of this Agreement:

- (a) 'Cape Verde authorities' means the Government of Cape Verde;
- (b) 'Community authorities' means the European Commission;
- (c) 'Cape Verde waters' means the waters over which Cape Verde has sovereignty or jurisdiction;
- (d) 'fishing vessel' means any vessel equipped for commercial exploitation of living aquatic resources;
- (e) 'Community vessel' means a fishing vessel flying the flag of a Member State of the Community and registered in the Community;
- (f) 'joint enterprise' means a commercial company set up in Cape Verde by vessel owners or national enterprises from the parties in order to engage in fishing or related activities;

(g) 'Joint Committee' means a committee made up of representatives of the Community and Cape Verde whose functions are described in Article 9 of this Agreement;

(h) 'transshipment' means the transfer in port or at sea of some or all of the catch from one fishing vessel to another fishing vessel;

(i) 'shipowner' means any person legally responsible for a fishing vessel who is in charge of and controls it;

(j) 'ACP seamen' means any seamen who are nationals of a non-European signatory to the Cotonou Agreement. To this end, a Cape Verde seaman is an ACP seaman.

Article 3

Principles and objectives underlying the implementation of this Agreement

1. The parties hereby undertake to promote responsible fishing in Cape Verde waters on the basis of the principles laid down in the FAO's Code of conduct for responsible fisheries and the principle of non-discrimination between the different fleets fishing in those waters.

2. The parties shall cooperate with a view to monitoring the results of the implementation of a sectoral fisheries policy adopted by the Government of Cape Verde and shall initiate a policy dialogue on the necessary reforms. They shall consult with a view to adopting potential measures in this area.

3. The parties shall also cooperate in carrying out evaluations of measures, programmes and actions implemented on the basis of this Agreement. The results of the evaluations shall be analysed by the Joint Committee provided for in Article 9.

4. The parties hereby undertake to ensure that this Agreement is implemented in accordance with the principles of good economic and social governance, respecting the state of fish stocks.

5. The employment of Cape Verde and/or ACP seamen on board Community vessels shall be governed by the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work, which shall apply as of right to the corresponding contracts and general terms of employment. 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.

*Article 4***Scientific cooperation**

1. During the period covered by this Agreement, the Community and Cape Verde shall monitor the evolution of resources in the Cape Verde fishing zone.

2. The two parties, based on the recommendations and resolutions adopted within the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the best available scientific advice, shall consult each other within the Joint Committee provided for in Article 9 or, where appropriate, within a scientific meeting. Cape Verde may, in agreement with the Community, take measures to ensure the sustainable management of fisheries resources.

3. The parties shall undertake to consult one other, either directly or within the competent international organisations, to ensure the management and conservation of living resources in the Atlantic Ocean, and to cooperate in relevant scientific research.

*Article 5***Access by Community vessels to the fisheries in Cape Verde waters**

1. Cape Verde undertakes to authorise Community vessels to engage in fishing activities in its fishing zone in accordance with this Agreement, including the Protocol and Annex thereto.

2. The fishing activities governed by this Agreement shall be subject to the laws and regulations in force in Cape Verde. The Cape Verde authorities shall notify the Commission of any amendments to that legislation and to any other legislation which may have an impact on fishing legislation.

3. Cape Verde shall assume responsibility for the effective application of the fisheries monitoring provisions in the Protocol. Community vessels shall cooperate with the Cape Verde authorities responsible for carrying out such monitoring.

4. The Community undertakes to take all the appropriate steps required to ensure that its vessels comply with this Agreement and the legislation governing fisheries in the waters over which Cape Verde has jurisdiction.

*Article 6***Licences**

1. Community vessels may fish in the Cape Verde fishing zone only if they are in possession of a fishing licence issued under this Agreement.

2. The procedure for obtaining a fishing licence for a vessel, the taxes applicable and the method of payment to be used by shipowners shall be as set out in the Annex to the Protocol.

*Article 7***Financial contribution**

1. The Community shall grant Cape Verde a financial contribution in accordance with the terms and conditions laid down in the Protocol and Annexes. This single contribution shall be composed of two related elements, namely:

(a) access by Community vessels to Cape Verde fisheries; and

(b) the Community's financial support for promoting responsible fishing and the sustainable exploitation of fisheries resources in Cape Verde waters.

2. The component of the financial contribution referred to in the above paragraph shall be determined and managed in the light of objectives identified by common accord between the parties in accordance with the Protocol, to be achieved in the context of the sectoral fisheries policy in Cape Verde and an annual and multiannual programme for its implementation.

3. The financial contribution granted by the Community shall be paid each year in accordance with the Protocol and subject to this Agreement and the Protocol in the event of any change to the amount of the contribution as a result of:

(a) unusual circumstances, other than natural phenomena, preventing fishing activities in Cape Verde waters;

(b) a reduction in the fishing opportunities granted to Community vessels, made by mutual agreement for the purposes of managing the stocks concerned, where this is considered necessary for the conservation and sustainable exploitation of resources on the basis of the best available scientific advice;

(c) an increase in the fishing opportunities granted to Community vessels, made by mutual agreement between the parties where the best available scientific advice concurs that the state of resources so permits;

(d) a reassessment of the terms of Community financial support for implementing a sectoral fisheries policy in Cape Verde, where this is warranted by the results of the annual and multiannual programming observed by both parties;

- (e) termination of this Agreement under Article 12;
- (f) suspension of the application of this Agreement under Article 13.

Article 8

Promoting cooperation among economic operators and in civil society

1. The parties shall encourage economic, scientific and technical cooperation in the fisheries sector and related sectors. They shall consult one another with a view to coordinating the different measures that might be taken to this end.
2. The parties shall encourage exchanges of information on fishing techniques and gear, preservation methods and the industrial processing of fisheries products.
3. The parties shall endeavour to create conditions favourable to the promotion of relations between enterprises from the parties in the technical, economic and commercial spheres, by encouraging the establishment of an environment favourable to the development of business and investment.
4. The parties shall undertake to implement an action plan between Cape Verde and Community operators, with the aim of developing local landings of Community vessels.
5. The parties shall encourage, in particular, the setting-up of joint enterprises in their mutual interest which shall systematically comply with Cape Verde and Community legislation.

Article 9

Joint Committee

1. A Joint Committee shall be set up to monitor the application of this Agreement. The Joint Committee shall perform the following functions:
 - (a) monitoring the performance, interpretation and application of this Agreement and, in particular, the definition of the annual and multiannual programming referred to in Article 7(2) and evaluation of its implementation;
 - (b) providing the necessary liaison for matters of mutual interest relating to fisheries;

- (c) acting as a forum for the amicable settlement of any disputes regarding the interpretation or application of the Agreement;
- (d) reassessing, where necessary, the level of fishing opportunities and, consequently, of the financial contribution;
- (e) any other function which the parties decide on by mutual agreement.

2. The Joint Committee shall meet at least once a year, alternately in the Community and in Cape Verde, and shall be chaired by the party hosting the meeting. It shall hold a special meeting at the request of either of the parties.

Article 10

Geographical area to which the Agreement applies

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community applies, under the conditions laid down in that Treaty, and, on the other, to the territory of Cape Verde.

Article 11

Duration

This Agreement shall apply for five years from the date of its entry into force; it shall be renewable for additional periods of five years, unless notice of termination is given in accordance with Article 12.

Article 12

Termination

1. This Agreement may be terminated by either party in the event of unusual circumstances such as the degradation of the stocks concerned, the discovery of a reduced level of exploitation of the fishing opportunities granted to Community vessels, or failure to comply with undertakings made by the parties with regard to combating illegal, unreported and unregulated fishing.
2. The party concerned shall notify the other party of its intention to withdraw from the Agreement in writing at least six months before the date of expiry of the initial period or each additional period.
3. Dispatch of the notification referred to in the previous paragraph shall open consultations by the parties.

4. Payment of the financial contribution referred to in Article 7 for the year in which the termination takes effect shall be reduced proportionately and *pro rata temporis*.

Article 13

Suspension

1. Application of this Agreement may be suspended at the initiative of one of the parties in the event of a serious disagreement as to the application of provisions laid down in the Agreement. Suspension of application of the Agreement 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. On receipt of this notification, the parties shall enter into consultations with a view to resolving their differences amicably.

2. Payment of the financial contribution referred to in Article 7 shall be reduced proportionately and *pro rata temporis*, according to the duration of the suspension.

Article 14

Protocol and Annex

The Protocol and the Annex shall form an integral part of this Agreement.

Article 15

National Law

The activities of Community vessels operating in Cape Verde waters shall be governed by the applicable law in the Cape Verde, unless otherwise provided in this Agreement, the Protocol and the Annex and appendices thereto.

Article 16

Repeal

This Agreement, on the date of its entry into force, repeals and replaces the Agreement between the European Economic Community and the Republic of Cape Verde on fishing off the coast of Cape Verde which entered into force on 24 July 1990.

Article 17

Entry into force

This Agreement, drawn up in duplicate in the Czech, Estonian, Danish, Dutch, English, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic, shall enter into force on the date on which the parties notify each other that their procedures have been completed.

PROTOCOL

setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde on fishing off the Coast of Cape Verde for the period from 1 September 2006 to 31 August 2011

Article 1

Period of application and fishing opportunities

1. For a period of five years from 1 September 2006, the fishing opportunities granted under Article 5 of the Agreement shall be as follows:

Highly migratory species (species listed in Annex 1 to the 1982 United Nations Convention)

— freezer tuna seiners: 25 vessels,

— pole-and-line tuna vessels: 11 vessels,

— surface longliners: 48 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 Cape Verde waters only if they are in possession of a fishing licence issued under this Protocol in accordance with the Annex to this Protocol.

Article 2

Financial contribution — Methods of payment

1. The financial contribution referred to in Article 7 of the Agreement shall comprise, for the period referred to in Article 1, an annual amount of EUR 325 000 equivalent to a reference tonnage of 5 000 tonnes per year and a specific amount of EUR 60 000 per year for the support and implementation of initiatives taken in the context of the Cape Verde sectoral fisheries policy. This specific amount shall be an integral part of the single financial contribution defined in Article 7 of the Agreement.

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

3. The Community shall pay the sum of the amounts referred to in paragraph 1, EUR 385 000, each year during the period of application of this Protocol.

4. If the overall quantity of catches by Community vessels in Cape Verde waters exceeds 5 000 tonnes per year, the amount of the financial contribution (EUR 325 000) 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 1 (EUR 650 000). 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 of the financial contribution referred to in paragraph 1 shall be made no later than 30 November 2006 for the first year and no later than 30 June 2007, 2008, 2009 and 2010 for the following years.

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

7. The financial contribution shall be paid into a Public Treasury account opened with a financial institution specified by the Cape Verde authorities.

Article 3

Cooperation on responsible fishing — Annual scientific meeting

1. The parties hereby undertake to promote responsible fishing in Cape Verde waters on the basis of the principles laid down in the FAO's Code of conduct for responsible fisheries and the principle of non-discrimination between the different fleets fishing in those waters.

2. During the period covered by this Protocol, the Community and the Cape Verde authorities shall monitor the evolution of resources in the Cape Verde fishing zone.

3. In accordance with Article 4 of the Agreement, the parties, based on the recommendations and resolutions adopted within the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the best available scientific advice, shall consult each other within the Joint Committee provided for in Article 9 where appropriate after a scientific meeting. Cape Verde may, in agreement with the Community, take measures to ensure the sustainable management of fisheries resources concerning the activities of Community vessels.

Article 4

Review of fishing opportunities by mutual agreement

1. The fishing opportunities referred to in Article 1 may be increased by mutual agreement provided that the conclusions of the scientific meeting referred to in Article 3(3) confirm that such an increase will not endanger the sustainable management of Cape Verde's 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 amount indicated in Article 2(1). Where the quantities caught by Community vessels exceed twice the quantities corresponding to the adjusted total annual amount, the amount due for the quantity exceeding that limit shall be paid the following year.

2. Conversely, if the parties agree to adopt a reduction in the fishing opportunities provided for in Article 1, the financial contribution shall be reduced proportionately and *pro rata temporis*.

3. 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 referred to in Article 3 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.

Article 5

New fishing opportunities

1. 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 Cape Verde 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.

2. The parties should promote exploratory fishing, particularly as regards deep-sea species present in Cape Verde waters. To this end, at the request of one of the parties, they shall consult each other and determine on a case-by-case basis the relevant species, conditions and other parameters.

The parties shall carry out exploratory fishing in accordance with parameters that shall be agreed by both parties in an

administrative arrangement where appropriate. The authorisations for exploratory fishing should be agreed for a maximum period of six months.

If the parties conclude that the exploratory campaigns have achieved positive results, the Cape Verde Government may allocate fishing opportunities for the new species to the Community fleet, until the expiry of this Protocol. The financial compensation referred to in Article 2(1) of the current Protocol shall consequently be increased.

Article 6

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

1. Where unusual circumstances, other than natural phenomena, prevent fishing activities in the Cape Verde exclusive economic zone (EEZ), the European Community may suspend payment of the financial contribution provided for in Article 2(1), following consultations between the two parties within a period of two months following the request of one of the parties, 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/or that the situation allows a resumption of fishing activities.

3. The validity of the licences granted to Community vessels under Article 6 of the Agreement shall be extended by a period equal to the period during which fishing activities were suspended.

Article 7

Promotion of responsible fishing in Cape Verde waters

1. Eighty percent (80 %) of the total amount of the financial contribution fixed in Article 2 shall be allocated each year to the support and implementation of initiatives taken in the context of the sectoral fisheries policy drawn up by the Government of Cape Verde.

Cape Verde shall manage the corresponding amount 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 Community and Cape Verde shall agree, within the Joint Committee provided for in Article 9 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 and its specific amounts for the initiatives to be carried out in 2007;
- (b) the objectives, both annual and multiannual, to be achieved with a view to promoting responsible fishing and sustainable fisheries, taking account of the priorities expressed by Cape Verde 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 or of the use of the specific amounts for the initiatives to be carried out in 2007 must be approved by both parties within the Joint Committee.

4. Each year, Cape Verde shall allocate the share corresponding to the percentage 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 of application of the Protocol thereafter, Cape Verde shall notify the Community of the allocation no later than 1 May of the previous year.

5. Where the annual evaluation of the progress made in implementing the multiannual sectoral programme so warrants, the European Community may ask for the financial contribution referred to in Article 2(1) of this Protocol to be readjusted 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 9 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 two 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 6, 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 Cape Verde 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 60 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 Cape Verde 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 Community vessels operating in Cape Verde waters under this Protocol shall be governed by the applicable law in the Cape Verde, unless otherwise provided in the Agreement, this Protocol and the Annex and appendices hereto.

*Article 11***Review clause**

The parties may review the provisions of the Protocol, the Annex and the appendices and, where necessary, make amendments mid-term.

*Article 12***Repeal**

The Annex to the Agreement between the European Economic Community and Republic of Cape Verde on fishing off the coast

of Cape Verde 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 September 2006.

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY COMMUNITY VESSELS IN THE CAPE VERDE FISHING ZONE

CHAPTER I

APPLICATION FOR AND ISSUE OF LICENCES*Section 1***Issue of licences**

1. Only eligible vessels may obtain a licence to fish in the Cape Verde fishing zone under the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period from 1 September 2006 to 31 August 2011.
2. For a vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in Cape Verde. They must be in order vis-à-vis the Cape Verde authorities insofar as they must have fulfilled all prior obligations arising from their fishing activities in Cape Verde under fisheries agreements concluded with the Community.
3. All Community vessels applying for a fishing licence may be represented by an agent resident in Cape Verde. The name and address of that agent shall be stated in the licence application. However, any vessel applying for a fishing licence which provides for unloading or transshipment in a Cape Verde port must be represented by an agent resident in Cape Verde.
4. The relevant Community authorities shall present to the Ministry responsible for fisheries in Cape Verde an application for each vessel wishing to fish under the Agreement at least 15 days before the date of commencement of the period of validity requested.
5. Applications shall be submitted to the Ministry responsible for fisheries in Cape Verde 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;
 - for all first applications under this Protocol, a recent colour photograph, of at least 15 cm × 10 cm, showing a side view of the vessel in its current state;
 - 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 Cape Verde authorities in accordance with Article 2(6) of the Protocol.
8. The fees shall include all national and local charges. However, the payment of these fees shall not include port taxes, transshipment fees 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 to Cape Verde ('the Delegation') within 15 days of receipt of all the documents referred to in point 6 by the Ministry responsible for fisheries in Cape Verde.
10. If a licence is signed at a time when the Delegation offices are closed, it may be sent, where appropriate, direct to the vessel's agent and a copy 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 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.
13. The owner of the first vessel, or the agent, shall return the cancelled licence to the competent Cape Verde authorities via the Delegation.
14. The new licence shall take effect on the day that the vessel's owner returns the cancelled licence to the Ministry responsible for fisheries in Cape Verde. The Delegation shall be informed of the licence transfer.
15. The licence must be held on board at all times. However, on receipt of notification of payment of the advance sent to the Cape Verde authorities by the European Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the Cape Verde authorities responsible for fisheries inspection. A copy of the list may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board.

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 EUR 35 per tonne caught within the Cape Verde fishing zone in the case of tuna seiners and surface longliners, and EUR 25 per tonne caught within the Cape Verde fishing zone in the case of pole-and-line tuna vessels.
3. Licences shall be issued once the following standard amounts have been paid to the competent national authorities:
 - EUR 3 950 per tuna seiner (of which EUR 100 will go towards financing the observer programme), equivalent to the fees due for 110 tonnes of highly migratory species and associated species caught per year;
 - EUR 2 900 per surface longliner (of which EUR 100 will go towards financing the observer programme), equivalent to the fees due for 80 tonnes of highly migratory species and associated species caught per year;
 - EUR 500 per pole-and-line tuna vessel (of which EUR 100 will go towards financing the observer programme), equivalent to the fees due for 16 tonnes of highly migratory species and associated species caught per year.
4. The final statement of the fees due for year *n* shall be drawn up by the Commission of the European Communities by 31 July of the year *n* + 1 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 Institut de Recherche pour le Développement (IRD), the Instituto Español de Oceanografía (IE), the Instituto de Investigação das Pescas e do Mar (IPIMAR) and the Instituto Nacional de Desenvolvimento das Pescas (INDP) of Cape Verde via the Delegation.
5. The statement shall simultaneously be notified to the Ministry responsible for fisheries in Cape Verde and the shipowners for checking and approval. The Cape Verde authorities may, on the basis of duly justified arguments within no more than 30 working days of the date of transmission, contest the statement. In the event of disagreement, the Joint Committee shall be consulted. If no objection is made in the given deadline the statement shall be accepted.
6. Any additional payments shall be made by the shipowners to the competent Cape Verde authorities by 30 September 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

1. Community vessels may carry out fishing activities in the following zones:
 - beyond 12 nautical miles from the base lines.

CHAPTER III

CATCH REPORTING ARRANGEMENTS

1. For the purposes of this Annex, the duration of a trip by a Community vessel shall be defined as follows:
 - either the period elapsing between entering and leaving the Cape Verde fishing zone;
 - or the period elapsing between entering the Cape Verde fishing zone and a transshipment;
 - or the period elapsing between entering the Cape Verde fishing zone and a landing in Cape Verde.
2. All vessels authorised to fish in Cape Verde waters under the Agreement shall be obliged to communicate their catches to the Ministry responsible for fisheries in Cape Verde so that it can check the quantities caught, which shall be validated by the competent scientific institutes in accordance with the procedure referred to in paragraph 4 of Section 2 of Chapter I of this Annex. Catches shall be communicated as follows:
 - 2.1. During an annual period of validity of the licence within the meaning of paragraph 1 of Section 2 of Chapter I of this Annex, declarations shall include the catches made by the vessel during each trip. The original of the declarations shall be transmitted on a physical medium to the Ministry responsible for fisheries in Cape Verde within 30 days following the end of the last trip made during the period. Copies shall be sent at the same time by electronic means or by fax to the flag Member State and the Ministry responsible for fisheries in Cape Verde.
 - 2.2. Vessels shall declare their catches on the corresponding form in the logbook, in accordance with the specimen in Appendix 2. The words 'Outside Cape Verde EEZ' shall be entered in the abovementioned logbook in respect of periods during which the vessel is not in Cape Verde waters.
 - 2.3. The forms shall be filled in legibly in block capitals, and signed by the master of the vessel or their legal representative.
3. Where the provisions set out in this Chapter are not complied with, the Government of Cape Verde 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 Cape Verde legislation.

CHAPTER IV

LANDING

The parties shall cooperate with a view to improving landing or transshipment options in Cape Verde ports.

1. Landings:

Community tuna vessels which opt to land their catches in a Cape Verde port shall benefit from a reduction on the fee indicated in paragraph 2 of Section 2 of Chapter 1 of the Annex of EUR 5 per tonne landed.

An additional reduction of EUR 5 per tonne shall be granted where fisheries products are sold to a Cape Verde processing factory.

This mechanism shall apply, for all Community vessels, up to a maximum 50 % of the final statement of catches (as defined in Chapter III of the Annex) from the first year of this Protocol.

2. Detailed rules on checks on the tonnages landed or transhipped shall be laid down at the first meeting of the Joint Committee.

3. Evaluation:

The level of the financial incentives and the maximum percentage of the final statement of catches shall be adjusted within the Joint Committee, in accordance with the socio-economic impact of landings in the year concerned.

CHAPTER V

EMBARKING SEAMEN

1. Owners of tuna vessels and surface longliners shall employ ACP nationals, including Cape Verde nationals, subject to the following conditions and limits:
 - for the fleet of tuna seiners, at least six ACP seamen shall be signed on during the tuna-fishing season in the Cape Verde fishing zone;
 - for the fleet of pole-and-line tuna vessels, at least three ACP seamen shall be signed on during the tuna-fishing season in the Cape Verde fishing zone;
 - for the fleet of surface longliners, at least four ACP seamen shall be signed on during the fishing season in the Cape Verde fishing zone.
2. Shipowners shall endeavour to take on board additional Cape Verde seamen.
3. Shipowners shall be free to select the seamen they take on board their vessels from the names on lists submitted by the competent authorities of the ACP countries concerned, including Cape Verde.
4. Where contracts have been signed with Cape Verde nationals, in accordance with point 1 of this Article, the shipowner or agent shall inform the competent Cape Verde 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. The employment contracts of Cape Verde seamen, in accordance with point 1 of this Article, shall be drawn up between the shipowners' agent(s) and the seamen and/or their trade unions or representatives in consultation with the Cape Verde maritime authority. A copy shall be given to the signatories. These contracts shall guarantee the seamen the social security cover applicable to them, including life assurance and sickness and accident insurance.
7. 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 authorities of the ACP country concerned. However, the wage conditions granted to local seamen shall not be lower than those applied to Cape Verde 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. However, where no ACP 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 the waters of the ACP country concerned, a flat-rate amount of EUR 20 per day. The payment of this amount shall 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 authorities of the ACP country concerned.

CHAPTER VI

TECHNICAL MEASURES

Vessels shall comply with the measures and recommendations adopted by ICCAT in the region regarding fishing gear and the technical specifications thereof and all other technical measures applicable to their fishing activities.

CHAPTER VII

OBSERVERS

1. Vessels authorised to fish in Cape Verde waters under the Agreement shall take on board observers appointed by the competent regional fisheries organisation (RFO) on the terms set out below.
 - 1.1. At the request of the RFO Community vessels shall take on board an observer designated by the organisation in order to check catches made in Cape Verde waters.
 - 1.2. The competent RFO 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 RFO 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 RFO, 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 RFO 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 competent RFO.
4. Observers shall be taken on board at a port chosen by the shipowner at the beginning of the first voyage in Cape Verde waters after notification of the list of designated vessels.
5. Within two weeks and giving 10 days' notice, the shipowners concerned shall make known at which ports in the subregion and on what dates they intend to take observers on board.
6. Where observers are taken on board in a port outside the subregion, their travel costs shall be borne by the shipowner. Should a vessel with a regional observer on board leave regional waters, all measures must be taken to ensure the observer's return 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 12 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 Cape Verde 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;
- 8.7. report fishing data by any appropriate means (radio, fax or electronic means) once a week while the vessel is fishing in Cape Verde waters, 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 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 RFO, with a copy to the master of the vessel.
13. Shipowners shall bear the cost of accommodating observers in the same conditions as the 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 the competent RFO.
15. The two parties shall consult each other, and interested third parties, as soon as possible as regards the definition of a system of regional observers and the choice of the competent regional fisheries organisation. Pending the implementation of a system of regional observers, vessels authorised to fish in Cape Verde waters under the Agreement shall take on board, instead of regional observers, observers designated by the competent Cape Verde authorities in accordance with the rules set out above.

CHAPTER VIII

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 Cape Verde authorities responsible for fisheries inspection as soon as it is drawn up and each time it is updated.
2. Entering and leaving the zone:
 - 2.1. Community vessels shall notify, at least three hours in advance, the Cape Verde authorities responsible for fisheries inspection of their intention to enter or leave the Cape Verde fishing zone. They shall also declare the total quantities and the species on board.
 - 2.2. When notifying leaving, vessels shall also communicate their position. This information should preferably be communicated by fax or, for vessels not equipped with a fax, by radio and by e-mail.
 - 2.3. Vessels found to be fishing without having informed the competent Cape Verde authority shall be regarded as vessels in breach of the legislation.

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

3. Control procedures

- 3.1. Masters of Community fishing vessels engaged in fishing activities in Cape Verde waters shall allow and facilitate boarding and the discharge of their duties by any Cape Verde official responsible for the inspection and control of fishing activities.
- 3.2. These officials shall not remain on board for longer than is necessary for the discharge of their duties.
- 3.3. Once the inspection has been completed, a certificate shall be issued to the master of the vessel.

4. Satellite monitoring

- 4.1. All Community vessels fishing under this Agreement shall be subject to satellite monitoring in line with provisions to be adopted in the first year of the Protocol. These provisions shall enter into force on the 10th day following notification by the Government of Cape Verde to the Delegation of the entry into operation of the body responsible for satellite monitoring of Cape Verde fishing vessels.

5. Boarding

- 5.1. The competent Cape Verde authorities shall inform the flag State and the European Commission, within no more than 24 hours, of all boardings of and penalties imposed on Community vessels in Cape Verde waters.
- 5.2. The flag State and the European Commission shall at the same time receive a brief report of the circumstances and reasons leading to the boarding.

6. Statement of boarding

- 6.1. After the competent Cape Verde authorities have drawn up a statement, the master of the vessel shall sign it.
- 6.2. This signature shall not prejudice the rights of the master or any defence which he may make to the alleged infringement.
- 6.3. The master shall take the vessel to the port indicated by the Cape Verde authorities. In the case of minor infringements, the competent Cape Verde authorities may authorise the boarded vessel to continue its fishing activities.

7. Consultation meeting in the event of boarding

- 7.1. 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 Cape Verde authorities, possibly attended by a representative of the Member State concerned.
- 7.2. 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.

8. Settlement of boarding

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

- 8.2. In the event of an amicable settlement, the amount of the fine shall be determined in accordance with Cape Verde legislation.
- 8.3. 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 Cape Verde authorities.
- 8.4. 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 Cape Verde authorities.
- 8.5. 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 8.3 has been lodged and accepted by the competent Cape Verde authorities, pending completion of the legal proceedings.

9. Transhipment

- 9.1. All Community vessels wishing to tranship catches in Cape Verde waters shall do so within Cape Verde ports.
- 9.2. The owners of such vessels must notify the following information to the competent Cape Verde authorities at least two working days in advance:
- the names of the transshipping fishing vessels;
 - the names of the cargo vessels;
 - the tonnage by species to be transhipped;
 - the day of transhipment;
 - the health certificate of the vessel of transhipment.
- 9.3. Transhipment shall be considered as an exit from the Cape Verde fishing zone. Vessels must therefore submit their catch declarations to the competent Cape Verde authorities and state whether they intend to continue fishing or leave the Cape Verde fishing zone.
- 9.4. Any transhipment of catches not covered above shall be prohibited in the Cape Verde fishing zone. Any person infringing this provision shall be liable to the penalties provided for by Cape Verde law.
10. Masters of Community fishing vessels engaged in landing or transhipment operations in a Cape Verde port shall allow and facilitate the inspection of such operations by Cape Verde inspectors. Once the inspection has been completed, a certificate shall be issued to the master of the vessel.
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Appendices

1. Licence application form
 2. ICCAT logbook
 3. Coordinates of the Cape Verde fishing zone (to be provided by the Cape Verde authorities before the entry into force of the Agreement and of the VMS Protocol)
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*Appendix 1***Ministry for fisheries**

Application for a licence for foreign industrial fishing vessels:

1. Name of shipowner:
 2. Address of shipowner:
 3. Name of shipowner's representative or local agent:
 4. Address of shipowner's representative or local agent:
 5. Name of master:
 6. Name of vessel:
 7. Registration No:
 8. Date and place of construction:
 9. Flag country:
 10. Port of registration:
 11. Port of fitting out:
 12. Overall length:
 13. Width of vessel:
 14. Gross registered tonnage:
 15. Net tonnage:
 16. Hold capacity:
 17. Cold storage and freezing capacity:
 18. Engine type and horse power:
 19. Fishing gear:
 20. Number of crew:
 21. Communications equipment:
 22. Call sign:
 23. Dialling signals:
 24. Fishing operations to be carried out:
 25. Place for landing catch:
 26. Fishing zones:
 27. Species to be caught:
 28. Period of validity:
 29. Special conditions:
 30. Other activities of the applicant in Cape Verde:
- Opinion of the Directorate-General for Fisheries:
- Comments of the Ministry for Fisheries, Agriculture and Rural Affairs:
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Appendix 3

Protocol (VMS)**Provisions applicable to satellite monitoring of Community fishing vessels operating in the Cape Verde EEZ**

1. The provisions of this Protocol supplement the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde on fishing off the coast of Cape Verde for the period from 1 September 2006 to 31 August 2011 and apply in accordance with point 4.1 of 'Chapter VII — Monitoring' in the Annex thereto.
2. All fishing vessels with an overall length exceeding 15 metres operating under the Fisheries Agreement between the European Community and Cape Verde shall be tracked by satellite when fishing in the Cape Verde EEZ.
 - For the purposes of the satellite tracking, the Cape Verde authorities shall communicate to the Community party the latitude and longitude coordinates of the Cape Verde EEZ.
 - The Cape Verde authorities shall transmit this information in electronic form, expressed in decimal degrees (WGS-84).
3. The parties shall exchange information on X.25 addresses and the specifications for electronic data transmission between their Control Centres in accordance with 5 to 7. 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.
4. The position of vessels shall be determined with a margin of error of less than 500 metres and a confidence interval of 99 %.
5. When a vessel which is fishing under the Agreement and is the subject of satellite tracking pursuant to Community legislation enters the Cape Verde EEZ, the subsequent position reports (vessel identification, longitude, latitude, course and speed) shall be transmitted immediately by the Control Centre of the flag State to the Cape Verde Fisheries Monitoring Centre (FMC) at intervals of no more than three hours. The messages concerned shall be identified as position reports.
6. The messages specified at 5 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.
7. Where the continuous satellite monitoring equipment installed on board a fishing vessel develops a technical fault or breaks down, the master of the vessel shall transmit the information specified at 5 to the Control Centre of the flag State and the Cape Verde FMC in good time. It will be necessary in those circumstances to send a global position report every nine hours. This global position report shall include the position reports as recorded by the master of the vessel on a three-hourly basis in accordance with the requirements laid down in point 5.

The Control Centre of the flag State shall send these messages immediately to the Cape Verde FMC. The faulty equipment shall be repaired or replaced within a period of not more than one month. After this deadline, the vessel in question must leave the Cape Verde EEZ.
8. The Control Centres of the flag States shall monitor the movements of their vessels in Cape Verde waters. If the vessels are not being monitored in accordance with the conditions laid down, the Cape Verde FMC shall be informed immediately this is discovered and the procedure laid down at 7 shall be applicable.
9. If the Cape Verde FMC establishes that the flag State is not transmitting the information specified in point 5, the competent European Commission departments shall be informed immediately.
10. The monitoring data communicated to the other party in accordance with these provisions is intended solely for the purposes of the Cape Verde authorities in controlling and monitoring the Community fleet fishing under the Fisheries Agreement between the European Community and Cape Verde. Such data may not under any circumstances be communicated to other parties.

11. The satellite-tracking system software and hardware components shall be reliable and shall not permit the input or output of false positions or be capable of being manually overridden.

The system shall be fully automatic and operational at all times regardless of environmental and weather conditions. Destroying, damaging, rendering inoperative or tampering with the satellite-tracking system shall be prohibited.

Masters shall ensure that:

- data are not altered in any way,
- the antenna or antennas connected to the satellite-tracking equipment are not obstructed in any way,
- the power supply of the satellite-tracking equipment is not interrupted in any way, and
- the satellite-tracking equipment is not removed from the vessel.

12. 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.

13. Any dispute over the interpretation or application of these provisions shall be the subject of consultation between the parties within the Joint Committee provided for in Article 9 of the Agreement.

14. The parties agree to review these provisions, as appropriate.

COMMUNICATION OF VMS MESSAGES TO CAPE VERDE

POSITION REPORT

Data Element	Code	Mandatory/ Optional	Comments
Start record	SR	O	System detail — indicates start of record
Recipient	AD	O	Message detail — recipient. Alpha 3 ISO country code
From	FR	O	Message detail — sender. Alpha 3 ISO country code
Flag State	FS	F	
Type of message	TM	O	Message detail — Message type 'POS'
Radio call sign	RC	O	Vessel detail — international radio call sign of vessel
Contracting party internal reference number	IR	F	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
Latitude	LA	O	Vessel position detail — position in degrees and minutes N/S DDMM (WGS-84)
Longitude	LO	O	Vessel position detail — position in degrees and minutes E/W DDMM (WGS-84)
Course	CO	O	Vessel course 360° scale
Speed	SP	O	Vessel speed in tenths of knots
Dates	DA	O	Vessel position detail — date of record of UTC position (YYYYMMDD)
Time	TI	O	Vessel position detail — time of record of UTC position (HHMM)
End record	ER	O	System detail — indicates end of record

Character set. ISO 8859.1

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.

**LIMITS OF THE CAPE VERDE EEZ
COORDINATES OF EEZ**

COORDINATES OF THE CAPE VERDE FMC

Name of FMC:

VMS Tel.:

VMS Fax:

VMS E-mail:

DSPG Tel.:

DSPG Fax:

Address X25 =

Declaration of entries/exits:
