



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.01.2007
COM(2007)16 final

Proposal for a

COUNCIL DECISION

on the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of 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 Madagascar on fishing off the coast of Madagascar for the period from 1 January 2007 to 31 December 2012

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Community and the Republic of Madagascar negotiated and initialled, on 21 June 2006, a Fisheries Partnership Agreement which provides Community fishermen with fishing opportunities in Madagascar's fishing zone. This Partnership Agreement, accompanied by a Protocol and the Annex thereto, was signed for a period of six years from its entry into force and is renewable. On the date of its entry into force, this Agreement repeals and replaces the Agreement between the European Community and the Republic of Madagascar on fishing off the coast of Madagascar which entered into force on 28 January 1986.

The Protocol and the Annex thereto setting out the technical and financial conditions governing the fishing activities of European Community vessels were signed for a period of six years from 1 January 2007. Pending the entry into force of the new Agreement, this Protocol and the Annex thereto will enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose. They will apply with effect from 1 January 2007.

The main objective of the new Partnership Agreement is to strengthen cooperation between the European Community and the Republic of Madagascar, thereby creating a partnership framework within which to develop a sustainable fisheries policy and sound exploitation of fisheries resources in Madagascar's fishing zone, in the interests of both Parties. The Commission's negotiating position was based in part on the results of an *ex-post* and *ex-ante* evaluation carried out by independent experts.

The two Parties are taking part in a political dialogue on topics of mutual interest in the fisheries sector. In the Partnership Agreement, the current priorities of fisheries policy in Madagascar will allow the identification by mutual agreement between the two Parties of objectives, and the annual and multiannual programming to attain them, with a view to ensuring sustainable and responsible management of the sector.

The Partnership Agreement also provides for encouraging economic, scientific and technical cooperation in the fisheries sector and related sectors.

The financial contribution is fixed at EUR 990 000 per year against a reference tonnage of 11 000 tonnes. This tonnage may be increased to 12 000 tonnes from 2007 and the financial contribution increased to EUR 1 080 000 per year if the total catch in 2006 exceeds 11 000 tonnes. Of this financial contribution, 80% will provide annual financial support for defining and implementing a sectoral fisheries policy in Madagascar, with a view to introducing responsible and sustainable fishing. This financial support will be based on annual and multiannual programming.

The fishing opportunities provided for in the Agreement have been laid down according to two categories: (1) for the fishing category "freezer tuna seiners": 44 vessels; (2) for the fishing category "surface longliners": 44 vessels.

In addition, five vessels may carry out exploratory line or bottom longline fishing for demersal species over two six-month periods.

Shipowners' fees have been fixed for each category and, overall, could provide Madagascar with an additional annual income of around EUR 385 000 (for a reference tonnage of 11 000 tonnes) or EUR 420 000 (if the reference tonnage increased to 12 000 tonnes).

The Commission is accordingly proposing that the Council adopt by Decision the Agreement in the form of an Exchange of Letters concerning the provisional application of the new Protocol, pending its definitive entry into force.

A proposal for a Council Regulation concerning the conclusion of the new Agreement is the subject of a separate procedure.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission,

Whereas:

- (1) The Community and the Republic of Madagascar have negotiated and initialled a Fisheries Partnership Agreement providing Community fishermen with fishing opportunities in the waters falling within the sovereignty of the Republic of Madagascar.
- (2) It is in the Community's interest to approve that Agreement.
- (3) It is necessary to guarantee the pursuit of fishing activities from the date of expiry of the previous Protocol¹ until the date of entry into force of the Protocol setting out the fishing opportunities and financial contribution provided for in that Agreement.
- (4) The method for allocating the fishing opportunities among the Member States should be defined,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters on the provisional application of 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 Madagascar on fishing off the coast of Madagascar for the period from 1 January 2007 to 31 December 2012 is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

¹ Approved by Council Regulation (EC) No 555/2005 of 17 February 2005.

Article 2

The Agreement shall apply provisionally from 1 January 2007.

Article 3

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

| Fishing category | Type of vessel | Member State | Licences or quota |
|------------------|---|----------------|-------------------|
| Tuna fishing | Freezer tuna seiners | Spain | 23 |
| | | France | 20 |
| | | Italy | 1 |
| Tuna fishing | Surface longliners | Spain | 21 |
| | | France | 15 |
| | | Portugal | 6 |
| | | United Kingdom | 2 |
| Demersal fishing | Exploratory line or bottom longline fishing | France | 5 |

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

Article 4

The Member States whose vessels fish under this Agreement shall notify the Commission of the quantities of each stock caught within Madagascar's fishing zone in accordance with Commission Regulation (EC) No 500/2001 of 14 March 2001 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 on the monitoring of catches taken by Community fishing vessels in third country waters and on the high seas².

² OJ L 73, 15.3.2001, p. 8.

Article 5

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

Done at Brussels,

*For the Council
The President*

Annex

Agreement in the form of an Exchange of Letters on the provisional application of 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 Madagascar on fishing off the coast of Madagascar for the period from 1 January 2007 to 31 December 2012

A. Letter from the Government of the Republic of Madagascar:

Sir,

I am delighted that the Republic of Madagascar and European Community negotiators have been able to reach a consensus on a Fisheries Partnership Agreement between the Republic of Madagascar and the European Community, and on a Protocol setting out the fishing opportunities and financial contribution and its Annexes.

The result of these negotiations progresses from the earlier Agreement and will strengthen our fisheries relations and establish a true framework of partnership in which to develop a sustainable fisheries policy and responsible exploitation of fisheries resources in Malagasy waters and improved economic integration of Community operators in Madagascar's fishing sector. To this end, I would propose launching in parallel the procedures for approval and ratification of the texts of the Agreement, the Protocol and its Annex and Appendices in accordance with the procedures in force in the Republic of Madagascar and the European Community and necessary to their entry into force.

In order to avoid interrupting fishing activities by Community vessels in Malagasy waters, and referring to the Agreement and the Protocol initialled on 21 June 2006 and setting out the fishing opportunities and financial contribution from 1 January 2007 to 31 December 2012, I have the honour to inform you that the Government of the Republic of Madagascar is willing to apply this Agreement and this Protocol provisionally from 1 January 2007 pending their entry into force in accordance with Article 17 of the Agreement, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial contribution, laid down by Article 2 of the Protocol, must be paid before 31 December 2007.

I should be grateful if you would confirm the agreement of the European Community to such a provisional application.

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

For the Government of the Republic of Madagascar

B. Letter from the European Community

Sir,

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

“Sir,

I am delighted that the Republic of Madagascar and European Community negotiators have been able to reach a consensus on a Fisheries Partnership Agreement between the Republic of Madagascar and the European Community, and on a Protocol setting out the fishing opportunities and financial contribution and its Annexes.

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In order to avoid interrupting fishing activities by Community vessels in Malagasy waters, and referring to the Agreement and the Protocol initialled on 21 June 2006 and setting out the fishing opportunities and financial contribution from 1 January 2007 to 31 December 2012, I have the honour to inform you that the Government of the Republic of Madagascar is willing to apply this Agreement and this Protocol provisionally from 1 January 2007 pending their entry into force in accordance with Article 17 of the Agreement, provided that the European Community is prepared to do likewise.

This is on the understanding that the first instalment of the financial contribution, laid down by Article 2 of the Protocol, must be paid before 31 December 2007.

I should be grateful if you would confirm the agreement of the European Community to such a provisional application.

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

For the Government of the Republic of Madagascar”.

I am pleased to confirm the agreement of the European Community to a provisional application.

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

For the Council of the European Union

PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND FINANCIAL CONTRIBUTION PROVIDED FOR IN THE FISHERIES PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF MADAGASCAR ON FISHING OFF THE COAST OF MADAGASCAR FOR THE PERIOD FROM 1 JANUARY 2007 TO 31 DECEMBER 2012

Article 1

Period of application and fishing opportunities

1. For a period of six years from 1 January 2007, 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: 44 vessels,
 - surface longliners: 44 vessels;
 - demersal species: 5 vessels for exploratory line or bottom longline fishing.
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 Madagascar's fishing zone only if they are in possession of a valid fishing licence issued by Madagascar under this Protocol in accordance with the Annex hereto.

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 715 000 equivalent to a reference tonnage of 11 000 tonnes per year and a specific amount of EUR 275 000 per year for the support and implementation of Madagascar's sectoral fisheries policy. This specific amount shall be an integral part of the single financial contribution defined in Article 7 of the Agreement³.
2. Paragraph 1 shall apply subject to Articles 4, 5, 6 and 7 of this Protocol.

³ If the catches recorded in 2006 exceed the reference tonnage of 11 000 tonnes, that reference tonnage shall be increased to 12 000 tonnes from 1 January 2007. In this case the financial contribution shall be EUR 780 000, plus a specific amount of EUR 300 000 for the implementation of the sectoral fisheries policy.

3. The Community shall pay the total amount referred to in paragraph 1, i.e. EUR 990 000, each year during the period of application of this Protocol.
4. If the overall quantity of catches by Community vessels in Malagasy waters exceeds the reference tonnage, the amount of the annual financial contribution shall be increased by EUR 65 for each additional tonne caught. However, the total annual amount paid by the Community shall not be more than twice the amount indicated in paragraph 3 (EUR 1 980 000). 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 31 December 2007 for the first year and no later than 28 February 2008, 2009, 2010, 2011 and 2012 for the following years.
6. Subject to Article 7, the Malagasy 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 at the *Banque Centrale de Madagascar*. The account reference is as follows: *Agence Comptable Centrale du Trésor public* with the *Banque Centrale de Madagascar* Antaninarenina- Antananarivo- Madagascar- account No: 213 101 000 125 TP EUR.

Article 3

Cooperation on responsible fishing – Scientific cooperation

1. The Parties hereby undertake to promote responsible fishing in Malagasy waters on the basis of the principles of non-discrimination between the different fleets fishing in those waters.
2. During the period covered by this Protocol, the Community and the Malagasy authorities shall endeavour to monitor the evolution of resources in Madagascar's fishing zone.
3. The Parties undertake to promote cooperation at subregional level on responsible fishing and, in particular, within the Indian Ocean Tuna Commission (IOTC) and the Indian Ocean Commission (IOC).
4. In accordance with Article 4 of the Agreement and on the basis of the recommendations and resolutions adopted within the Indian Ocean Tuna Commission, and in the light of the best available scientific advice, the Parties shall consult each other within the Joint Committee provided for in Article 9 of the Agreement and adopt, where appropriate after a scientific meeting possibly at subregional level, and by mutual agreement, measures to ensure the sustainable management of fisheries resources affecting 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(4) confirm that such an increase will not endanger the sustainable management of Madagascar'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 in respect of the reference tonnage shall not be more than twice the amount of the financial contribution referred to in Article 2(1). Where the quantities caught annually by Community vessels are more than twice 11 000 tonnes (i.e. 22 000 tonnes), 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, following consultations and by mutual agreement between the Parties, provided that any changes comply with recommendations made by the scientific meeting referred to in Article 3(4) 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 and exploratory fishing opportunities

1. Should Community vessels be interested in fishing activities which are not indicated in Article 1, the Community shall consult Madagascar in order to seek authorisation for these new activities. 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.
2. The Parties may carry out exploratory fishing trips in Madagascar's fishing zones, subject to an opinion by the scientific meeting provided for in Article 3(4). To this end, they shall hold consultations whenever one of the Parties so requests and determine, on a case-by-case basis, relevant new resources, conditions and other parameters.
3. The two Parties shall carry out exploratory fishing activities in accordance with scientific and administrative parameters adopted by mutual agreement. The authorisations for exploratory fishing shall be granted for test purposes, for a maximum of two six-month trips, from the date decided by mutual agreement between the two Parties.

4. Where the Parties conclude that the exploratory fishing trips have produced positive results, while preserving ecosystems and conserving living marine resources, new fishing opportunities may be awarded to Community vessels following the consultation procedure provided for in Article 4 of this Protocol and until the expiry of the Protocol and in accordance with the allowable effort. The financial contribution will be increased as a result.

Article 6

Suspension and review of the payment of the financial contribution in the event of unusual circumstances

1. Where unusual circumstances, other than natural phenomena, prevent fishing activities in Madagascar's exclusive economic zone (EEZ), the European Community may suspend payment of the financial contribution provided for in Article 2(1). The suspension decision shall be taken 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. Where the validity of the licences granted to Community vessels is suspended along with the payment of the financial contribution, it shall be extended by a period equal to the period during which fishing activities were suspended.

Article 7

Promotion of responsible fishing in Malagasy waters

1. 80% of the total amount of the financial contribution fixed in Article 2 and of fees paid by shipowners 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 Malagasy Government.

Madagascar shall manage the corresponding amount following the identification by mutual agreement between the two Parties, in accordance with the current priorities of Madagascar's fisheries policy for ensuring sustainable and responsible management of the sector, of the objectives to be attained and the annual and multiannual programming required to attain them, pursuant to paragraph 2 below.

2. On a proposal from Madagascar and for the purposes of implementing the preceding paragraph, as soon as this Protocol enters into force and no later than three months after that date, the Community and Madagascar 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 each year;
 - (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 Madagascar 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 each year must be approved by both Parties within the Joint Committee.
 4. Each year, Madagascar 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, Madagascar shall notify the Community of the allocation no later than 1 September 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 amount for the support and implementation of Madagascar's sectoral fisheries policy within 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. As soon as an amicable 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 Malagasy authorities shall notify the European Commission of the non-payment. The latter shall carry out the requisite checks 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 Malagasy 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 Malagasy waters shall be governed by the applicable law in Madagascar, unless otherwise provided in the Agreement, this Protocol and the Annex and Appendices hereto.

Article 11

Repeal

The Annex to the Agreement between the European Economic Community and the Democratic Republic of Madagascar on fishing off the coast of Madagascar is hereby repealed and replaced by the Annex to this Protocol.

Article 12

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. They shall apply with effect from 1 January 2007.

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY COMMUNITY VESSELS IN MADAGASCAR'S 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 Madagascar's fishing zone.
2. For a vessel to be eligible, neither the owner, the skipper nor the vessel itself must be prohibited from fishing in Madagascar. They must be in order vis-à-vis the Malagasy authorities insofar as they must have fulfilled all prior obligations arising from their fishing activities in Madagascar under fisheries agreements concluded with the Community.
3. The relevant Community authorities shall submit (by electronic means) to the Ministry responsible for fisheries in Madagascar an application for each vessel wishing to fish or assist in fishing activities under the Agreement at least 15 working days before the date of commencement of the period of validity requested.
4. Applications shall be submitted to the Ministry responsible for fisheries on a form drawn up in accordance with the specimen in Appendix I. The Malagasy authorities shall take all the necessary steps to ensure that the data received as part of the licence application are treated as confidential. This data will be used exclusively in the context of the implementation of the Fisheries Agreement.
5. All licence applications shall be accompanied by the following documents:
 - proof of payment of the flat-rate advance for the period of validity of the licence;
 - a copy of the tonnage certificate, certified by the flag Member State, giving the tonnage of the vessel expressed in GT;
 - a recent, certified colour photograph showing a side view of the vessel in its current state. The photograph shall be at least 15 cm by 10 cm;
 - a colour photocopy of the registration markings and call sign⁴.
6. The fee shall be paid into the account specified by the Malagasy authorities in accordance with Article 2(7) of the Protocol.
7. The fees shall include all national and local charges with the exception of port taxes and service charges.

⁴ In conformity with international standards.

8. Licences for all vessels shall be issued to shipowners or their representatives via the European Commission Delegation to Madagascar within 15 working days of receipt of all the documents referred to in point 5 by the Ministry responsible for fisheries in Madagascar.
9. Licences shall be issued for a specific vessel and shall not be transferable.
10. 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, as referred to in Article 1 of the Protocol, 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.
11. The owner of the first vessel, or his or her representative, shall return the cancelled licence to the Ministry responsible for fisheries in Madagascar via the European Commission Delegation.
12. 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 Madagascar. The European Commission Delegation to Madagascar shall be informed of the licence transfer.
13. The licence must be held on board at all times. 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 draft shall be notified to the Malagasy authorities as soon as it is drawn up, and then each time it is updated. On receipt of this draft list and of notification of payment of the advance sent to the coastal state authorities by the Commission, the vessel shall be entered by the competent Malagasy authority on a list of vessels authorised to fish, which shall be notified to the authorities responsible for fisheries inspection. The shipowner may then obtain a certified copy of this list to be kept on board instead of the fishing licence until the licence has been issued.
14. The two Parties shall seek agreement for the purposes of promoting the introduction of a licence system based exclusively on the electronic exchange of all the information and documents described above. The two Parties shall seek agreement for the purposes of promoting the rapid replacement of the paper licence by an electronic equivalent such as the list of vessels authorised to fish in Madagascar's fishing zone.
15. No fee shall be required for licences for support vessels. Support vessels must fly the flag of a Community Member State or form part of a Community company.

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 Madagascar's fishing zone in the case of tuna seiners and surface longliners.

3. Licences shall be issued once the following standard amounts have been paid to the competent national authorities:
 - EUR 3 920 per tuna seiner, equivalent to the fees due for 112 tonnes per year;
 - EUR 3 500 per surface longliner of over 250 GT, equivalent to the fees due for 100 tonnes per year;
 - EUR 1 680 per surface longliner of 250 GT or below, equivalent to the fees due for 48 tonnes per year;
 - the amount for demersal fishing licences shall be fixed at a later stage within the Joint Committee following the exploratory fishing phase. During the exploratory phase, licences shall be issued free of charge.
4. Member States shall inform the European Commission not later than 15 June each year of the tonnages caught during the past year, as confirmed by the scientific institutes referred to in point 5 below.
5. The final statement of the fees due for year n shall be drawn up by the European Commission by 31 July of 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* (IEO) and the *Instituto de Investigação das Pescas e do Mar* (IPIMAR) via the European Commission Delegation.
6. This statement shall be sent simultaneously to the Ministry responsible for fisheries in Madagascar and to the shipowners.
7. Any additional payments for quantities caught in excess of 112 tonnes for tuna seiners, 100 tonnes for longliners of over 250 GT and 48 tonnes for longliners of 250 GT or below shall be made by the shipowners to the competent Malagasy national authorities by 31 August of year n+1, into the account referred to in point 6 of Section 1 of this Chapter, on the basis of EUR 35 per tonne.
8. 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 waters beyond 12 nautical miles from the base lines in the case of tuna seiners and surface longliners. A protection zone of three nautical miles from fish aggregating devices not belonging to Community vessels must be observed.

CHAPTER III – CATCH REPORTING ARRANGEMENTS FOR VESSELS AUTHORISED TO FISH IN MALAGASY WATERS

1. For the purposes of this Annex, the duration of a trip by a Community vessel in Madagascar's fishing zone shall be defined as follows:
 - the period elapsing between entering and leaving Madagascar's fishing zone, or
 - or the period elapsing between entering Madagascar's fishing zone and a transshipment in port and/or a landing in Madagascar;
2. All vessels authorised to fish in Malagasy waters under the Agreement shall be obliged to notify their catches so that the Malagasy authorities can check the quantities caught, which shall be validated by the competent scientific institutes in accordance with the procedure referred to in point 5 of Section 2 of Chapter I of this Annex. Vessels over 24 metres in length must notify their catches every 15 calendar days to Madagascar's Fisheries Monitoring Centre (FMC), while they are in Madagascar's fishing zone. Catches shall be notified as follows:
 - 2.1 During an annual period of validity of the licence within the meaning 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 FMC within 45 days following the end of the last trip made during the period. These notifications shall also be made by fax (+ 261 20 22 490 14) or e-mail (csp-mprh@blueline.mg).
 - 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 Madagascar's fishing zone" shall be entered in the logbook in respect of periods during which the vessel is not in Madagascar's fishing zone.
 - 2.3 The forms shall be filled in legibly and signed by the skipper of the vessel or by his or her legal representative.
3. Where the provisions set out in this Chapter are not complied with, the Malagasy Government reserves the right to suspend the licence of the offending vessel until formalities have been completed and to apply to the shipowner the penalty laid down in current Malagasy legislation. The European Commission and the flag Member State shall be informed thereof.
4. The two Parties shall seek agreement for the purposes of promoting a catch reporting system based exclusively on the electronic exchange of all the information and documents described above. The two Parties shall seek agreement for the purposes of promoting the rapid replacement of the written declaration (logbook) by an equivalent in the form of an electronic file.

CHAPTER IV – TRANSHIPMENT AND LANDINGS

The Parties shall cooperate with a view to improving landing or transshipment options in Malagasy ports.

1. Landings:

Community tuna vessels which opt to land their catches in a Malagasy port shall benefit from a reduction of EUR 5 per tonne fished in Madagascar's fishing zone in the fee indicated in point 2 of Section 2 of Chapter 1 of the Annex.

An additional reduction of EUR 5 shall be granted where fisheries products are sold to a processing factory in Madagascar.

This mechanism shall apply, for all Community vessels, up to a maximum of 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 seiners 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 third countries shall be of ACP origin⁵,
- for the fleet of surface longliners, at least 20% of the seamen signed on during the fishing season in the fishing zone of third countries shall be of ACP origin.

2. Shipowners shall endeavour to sign on additional seamen of ACP origin.

3. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on by Community 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.

⁵ Including at least 70 seamen out of the total European fleet belonging to the IOTC member countries.

4. The employment contracts of ACP seamen shall be drawn up between the shipowners' representative(s) and the seamen and/or their trade unions or representatives. A copy of these contracts 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.
5. The wages of the ACP seamen shall be paid by the shipowners. They shall be fixed by mutual agreement among the shipowners or their representatives and the seamen and/or their trade unions or representatives. However, the wage conditions granted to ACP seamen shall not be lower than those applied to crews from their respective countries and shall under no circumstances be below ILO standards.
6. All seamen employed aboard Community vessels shall report to the skipper 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.

CHAPTER VI – TECHNICAL MEASURES

Vessels shall comply with the measures and recommendations adopted by IOTC 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 Malagasy waters under the Agreement shall take on board observers appointed by the competent regional fisheries organisation on the terms set out below.
 - 1.1 At the request of the competent authority, Community vessels shall take on board an observer designated by the authority in order to check catches made in Malagasy waters.
 - 1.2 The competent authority 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 authority shall inform the shipowners concerned, or their representatives, 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 Malagasy authorities, this embarkation may be spread over several trips according to the average duration of trip for a particular vessel. This request shall be made by the competent authority 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 representatives and the competent authority.
4. Observers shall be taken on board at a port chosen by the shipowner at the beginning of the first voyage in Malagasy waters after notification of the list of designated vessels.
5. Within two weeks and giving ten 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 country outside the subregion, their travel costs shall be borne by the shipowner. Should a vessel with a regional observer on board leave the regional fishing zone, 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 twelve hours following the time agreed, shipowners shall be automatically absolved of their obligation to take the observer on board.
8. Observers shall be treated as officers. Where vessels are operating in Malagasy waters, 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 Malagasy waters recorded in the logbook;
 - 8.6 verify the percentages of by-catches and estimate the quantity of discards of species of marketable fish;
 - 8.7 report by any appropriate means fishing data, including the quantity of catches and by-catches on board, to their competent authority.
9. Skippers shall do everything in their power to ensure the physical safety and welfare of observers during performance of their duties.
10. Observers shall be offered every facility needed to carry out their duties. The skipper 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 authorities, with a copy to the European Commission. They shall sign it in the presence of the skipper, who may add or cause to be added to it any observations considered relevant, followed by the skipper's signature. A copy of the report shall be handed to the skipper when the observer is put ashore.
 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 authorities.
 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 Madagascar's fishing zone under the Agreement shall take on board, instead of regional observers, observers designated by the competent Malagasy authorities in accordance with the rules set out above.

CHAPTER VIII – MONITORING

1. In accordance with point 13 of Section 1 of Chapter I of this Annex, 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 Malagasy authorities responsible for fisheries inspection as soon as it is drawn up and each time it is updated.
2. On receipt of this draft list and of notification of payment of the advance (referred to in point 3 of Section 2 of Chapter I of this Annex) sent to the coastal state authorities by the European Commission, the vessel shall be entered by the competent Malagasy authority on a list of vessels authorised to fish, which shall be sent to the authorities responsible for fisheries inspection. In this case, a certified copy of this list shall be sent to the shipowner and kept on board instead of the fishing licence until the licence has been issued.
3. Entering and leaving the zone
 - 3.1 Community vessels shall notify, at least three hours in advance, the Malagasy authorities responsible for fisheries inspection of their intention to enter or leave Madagascar's fishing zone; they shall also declare the overall quantities and the species on board in accordance with the attached model. An intention to enter which is not actually followed up must be cancelled by fax or e-mail. The Fisheries Monitoring Centre must e-mail an acknowledgement of receipt for each declaration (entry/exit) directly to the fishing vessel and/or failing that to the shipowner.

- 3.2 When notifying leaving, vessels shall also communicate their position. This information should preferably be communicated by fax (+261 20 22 490 14) or e-mail (csp-mprh@blueline.mg) or, for vessels not equipped with a fax or e-mail, by radio (call sign BLU, only during working hours and on working days in Madagascar, 8754.00 Mhz. The radio call sign of Madagascar's Fisheries Monitoring Centre is "CHARLIE SIERRA PAPA").
 - 3.3 Vessels found to be fishing without having informed the competent Malagasy authority shall be regarded as vessels in breach of the legislation.
 - 3.4 Vessels shall also be informed of the fax and telephone numbers and e-mail address when the fishing licence is issued.
 - 3.5 On receipt of messages notifying entry into and/or exit from the fishing zone, the Malagasy authorities reserve the right to decide whether or not to carry out a check on the catches of the longliner fleet of more than 250 GT on the basis of sampling of around 10% of the fleet concerned. Such checks shall take place in the nearest port or at a control point at sea.
4. Control procedures
 - 4.1 Skippers of Community fishing vessels engaged in fishing activities in Madagascar's waters shall allow and facilitate boarding and the discharge of their duties by any Malagasy official responsible for the inspection and control of fishing activities.
 - 4.2. These officials shall not remain on board for longer than is necessary for the discharge of their duties.
 - 4.3. Once the inspection has been completed, a certificate shall be issued to the skipper of the vessel.
5. Satellite monitoring

All Community vessels fishing under this Agreement shall be subject to satellite monitoring in line with Appendix 4.
6. Boarding
 - 6.1 The competent Malagasy 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 Malagasy waters.
 - 6.2 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.
7. Statement of boarding
 - 7.1 After the competent Malagasy authority has drawn up a statement, the skipper of the vessel shall sign it.

7.2 This signature shall not prejudice the rights of the skipper or any defence which he or she may make to the alleged infringement. If the skipper refuses to sign this document, he or she shall specify the reasons for doing so in writing and the inspector shall write “refusal to sign” on it.

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

8. Consultation meeting in the event of boarding

8.1 Before any measures regarding the skipper 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 Malagasy authorities, possibly attended by a representative of the Member State concerned.

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

9. Settlement of boarding

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

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

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

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

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

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

- when the bank security referred to in point 9.3 has been lodged and accepted by the competent Malagasy authorities, pending completion of the legal proceedings.

10. Transhipment

10.1 All Community vessels wishing to tranship catches in Malagasy waters shall do so in or off Malagasy ports.

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

- the names of the transshipping fishing vessels,
- the names, OMI numbers and flag of the cargo vessels,
- the tonnage by species to be transhipped,
- the day and place of transhipment.

10.3. Transhipment shall be considered as an exit from Madagascar's fishing zone. Skippers of vessels must submit their catch declarations to the competent Malagasy authorities and state whether they intend to continue fishing or leave Madagascar's fishing zone.

10.4. Any transhipment of catches not covered above shall be prohibited in Madagascar's fishing zone. Any person infringing this provision shall be liable to the penalties provided for by Malagasy law.

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

APPENDICES

- 1 – Licence application form
- 2 – IOTC logbook
- 3 – Provisions applicable to the satellite-based vessel monitoring system (VMS) and coordinates of Madagascar's fishing zone

Appendix 1

MINISTRY RESPONSIBLE FOR FISHERIES IN MADAGASCAR NEW APPLICATION FOR OR RENEWAL OF⁶ A LICENCE FOR FOREIGN INDUSTRIAL FISHING VESSELS:

1. Name of shipowner:
 2. Address of shipowner:.....
 3. Name of representative or agent (if applicable):
 4. Address of shipowner's representative or local agent (if applicable):
 -
 5. Name of skipper:
 6. Name of vessel:
 7. Registration No:
 8. Fax No:
 9. E-mail address:
 10. Radio code:
 11. Date and place of construction:
 12. Flag country:.....
 13. Port of registration:.....
 14. Port of fitting out:
 15. Overall length:
 16. Width of vessel:.....
 17. Gross tonnage (GT):
 18. Hold capacity:.....
 19. Cold storage and freezing capacity:
 20. Engine type and horse power:
 21. Fishing gear:
 22. Number of crew:.....
 23. Communications equipment:.....
 24. Call sign:.....
 25. Identification markings:.....
 26. Fishing operations to be carried out:
 27. Place of landing:
 28. Fishing zones:
 29. Species to be caught:
 30. Period of validity:
 31. Special conditions:.....
- Opinion of the Directorate-General for Fisheries and Aquaculture:
- Comments of the Ministry responsible for fisheries:

⁶ Delete as appropriate.

Appendix 2
LOGBOOK FOR TUNA FISHERY

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

| | | | | | |
|------------------------|--------------------------|--------------------|---------------------|--------------|------|
| Name of vessel: | Gross tonnage: | Month | Day | Year | Port |
| Flag country: | Capacity - (M.T.): | | | | |
| Registration No: | Captain: | Vessel DEPARTED: | | | |
| Shipowner: | 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 (°C) | Fishing effort No of hooks used | Capturas (Catches) | | | | | | | | | | | | | | | | Isco usado na pesca (Bait used) | | | | | | | | |
|-------|-----|--------------|---------------|-------------------------|------------------------------------|--|----|--|----|--|----|---------------------------------------|----|---------------------------------------|----|--|----|---|----|--|----|---------------------------------------|----|----------------------|----|---------------------------------|--|-------|-----------|---------|
| Month | Day | Latitude N/S | Longitude E/O | | | Bluefin tuna <i>Thunnus thynnus or maccoyii</i> | | Yellowfin tuna <i>Thunnus albacares</i> | | (Bigeye tuna) <i>Thunnus obesus</i> | | (Albacore) <i>Thunnus alalunga</i> | | (Swordfish) <i>Xiphias gladius</i> | | (Strip marlin) (White marlin) <i>Tetrapturus audax or albidus</i> | | (Black marlin) <i>Makaira indica</i> | | (Sailfish) <i>Istiophorus albicans or platypterus</i> | | Skipjack <i>Katsuwonus pelamis</i> | | (Miscellaneous fish) | | Daily total (weight in kg only) | | 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 | | | | |
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Appendix 3

Coordonnées (latitudes et longitudes) de la zone de pêche (ZP) de Madagascar

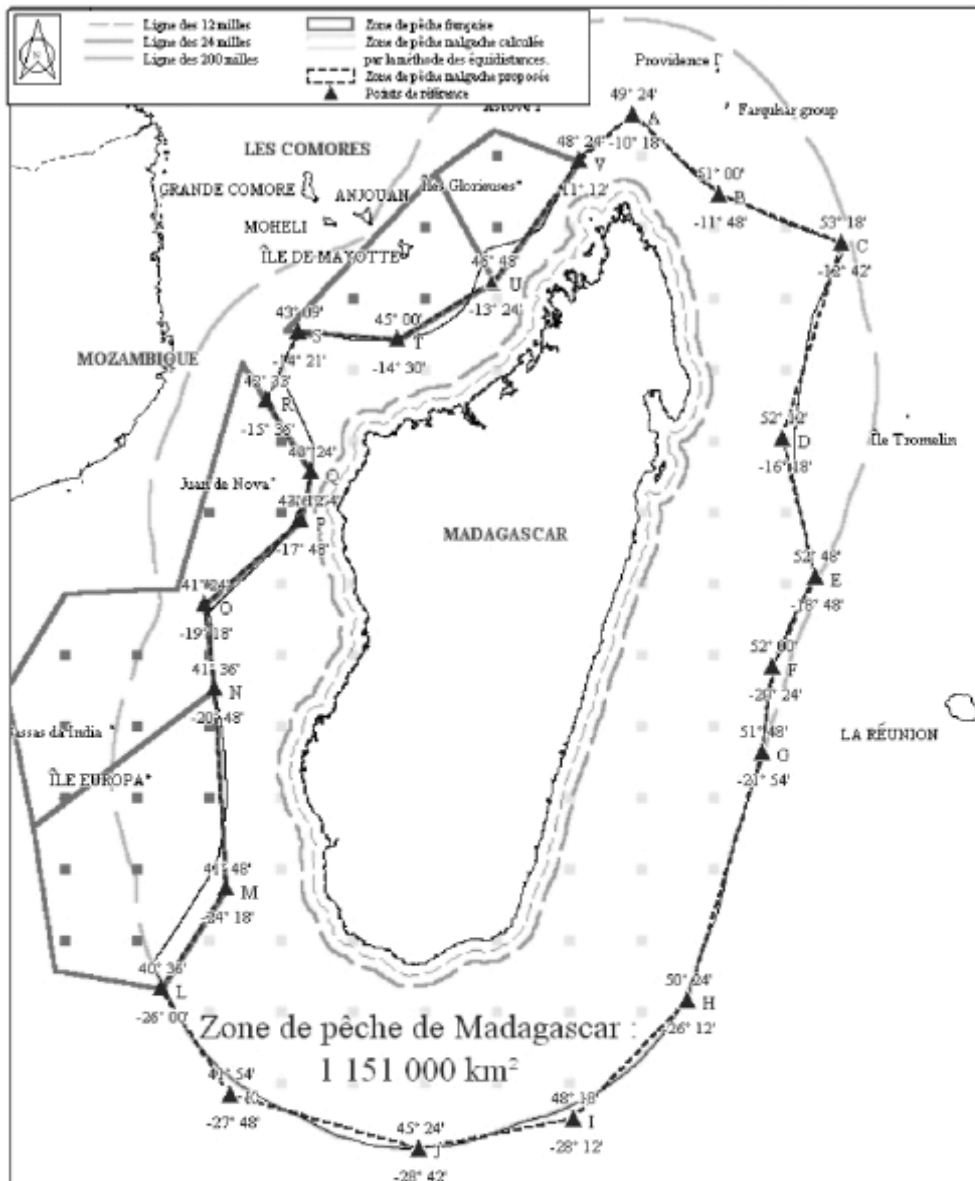
(voir aussi carte géographique annexée en appendice 4)

| Réf | Coordonnées en deg. déc. | | Coordonnées en deg. mn | |
|-----|--------------------------|--------|------------------------|---------|
| | X | Y | X | Y |
| A | 49,40 | -10,3 | 49°24'E | 10°18'S |
| B | 51 | -11,8 | 51°0'E | 11°48'S |
| C | 53,3 | -12,7 | 53°18'E | 12°42'S |
| D | 52,2 | -16,3 | 52°12'E | 16°18'S |
| E | 52,8 | -18,8 | 52°48'E | 18°48'S |
| F | 52 | -20,4 | 52°0'E | 20°24'S |
| G | 51,8 | -21,9 | 51°48'E | 21°54'S |
| H | 50,4 | -26,2 | 50°24'E | 26°12'S |
| I | 48,3 | -28,2 | 48°18'E | 28°12'S |
| J | 45,4 | -28,7 | 45°24'E | 28°42'S |
| K | 41,9 | -27,8 | 41°54'E | 27°48'S |
| L | 40,6 | -26 | 40°36'E | 26°0'S |
| M | 41,8 | -24,3 | 41°48'E | 24°18'S |
| N | 41,6 | -20,8 | 41°36'E | 20°48'S |
| O | 41,4 | -19,3 | 41°24'E | 19°18'S |
| P | 43,2 | -17,8 | 43°12'E | 17°48'S |
| Q | 43,4 | -16,9 | 43°24'E | 16°54'S |
| R | 42,55 | -15,6 | 42°33'E | 15°36'S |
| S | 43,15 | -14,35 | 43°9'E | 14°21'S |
| T | 45 | -14,5 | 45°0'E | 14°30'S |
| U | 46,8 | -13,4 | 46°48'E | 13°24'S |
| V | 48,4 | -11,2 | 48°24'E | 11°12'S |

Appendix 4

Madagascar's fishing zone

Échelle: 1 /14 000 000^e.



Édition: Septembre 2003.

0 250 500
en kilomètres

Zone de pêche de Madagascar:

- À l'ouest: Calage de la zone de pêche de Madagascar sur la zone de pêche française.
- Au sud et au sud-est: Calage sur la ligne des 200 milles calculée à partir du trait de côte.
- Au nord et à l'est: Calage sur la zone de pêche calculée par la méthode des équidistances.
- Simplification de la délimitation à partir de points de référence.

Protocol (VMS)

setting out the provisions applicable to satellite monitoring of Community fishing vessels operating in Madagascar's 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 Democratic Republic of Madagascar on fishing off the coast of Madagascar for the period from 1 January 2007 to 31 December 2012 and apply in accordance with point 5. of "Chapter VIII – 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 Madagascar shall be monitored by satellite when fishing in Madagascar's EEZ.

For the purposes of the satellite monitoring, the Malagasy authorities shall communicate to the Community party the latitude and longitude coordinates of Madagascar's EEZ.

The Malagasy 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 points 5 and 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 monitoring pursuant to Community legislation enters Madagascar's 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 Madagascar's 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 in point 5 shall be transmitted electronically in X.25 format, or any other secure 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 skipper of the vessel shall transmit the information specified in point 5 to the Control Centre of the flag State and Madagascar's FMC in good time. It will be necessary in those circumstances to send a global position report at 06.00, 12.00 and 18.00 Madagascar time. This global position report shall include the position reports as recorded by the skipper 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 to Madagascar's 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 Madagascar's EEZ.

8. The Control Centres of the flag States shall monitor the movements of their vessels in Malagasy waters. If the vessels are not being monitored in accordance with the conditions laid down, Madagascar's FMC shall be informed by the FMC of the flag State as soon as this is discovered and the procedure laid down in point 7 shall be applicable.
9. If Madagascar's 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 Malagasy authorities in controlling and monitoring the Community fleet fishing under the Fisheries Agreement between the European Community and Madagascar. Such data may not under any circumstances be communicated to other parties.
11. The satellite-monitoring 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-monitoring system shall be prohibited.

Skippers shall ensure that:

- data are not altered in any way;
 - the antenna or antennas connected to the satellite-monitoring equipment are not obstructed;
 - the power supply of the satellite-monitoring equipment is not interrupted; and
 - the satellite-monitoring 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 MADAGASCAR

POSITION REPORT

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

COORDINATES OF MADAGASCAR'S FMC

Name of FMC: Centre de Surveillance des Pêches (CSP)

FMC tel.: 00 261 20 22 404 10

FMC fax: 00 261 20 22 490 14

FMC e-mail: csp-mprh@blueline.mg

DPRH tel. and fax: Direction de la pêche et des ressources halieutiques (DPRH) 00261 20 22 409 00

DPRH e-mail: mamy.andriantsoa@wanadoo.mg

Address X25 = 134 164 784 14 from FMC- France

208 034 164 784 14 from FMC-Spain, FMC- Portugal, FMC-Italy

Model declaration of entries/exits:

DECLARATION D'ENTREE DANS LA ZONE ECONOMIQUE EXCLUSIVE DE MADAGASCAR.

ENTRY REPORT IN MADAGASCAR ECONOMIC EXCLUSIVE ZONE

INFORME DE ENTRADA Y SALIDA DE LA ZEE DE MADAGASCAR

A/TO: Centre de Surveillance des Pêches du Ministère de la Pêche et des Ressources Halieutiques – Madagascar

e-mail: csp-mprh@blueline.mg

Fax: 00 261 20 22 490 14

DE/FROM:

Nom du navire/Name of the vessel/Nombre del buque:

Indicatif d'appel par radio/Call sign:

Numéro de la licence/Number of the autorisation/Licencia N°:

Nationalité/Nationality:

Type de bateau/Kind of vessel:

Date d'entrée/Date of entry/Fecha de entrada:

Heures d'entrée/Time of entry/Hora de entrada:

Position d'entrée/ Position of entry/Posicion de entrada:

Capture à bord avant l'entrée dans la zone/Fish or catch on board before entering the zone/Pescado a bordo:

| Capture/Catch/Pescado | Nombre/# | Poids/Weight |
|--|----------|--------------|
| Thon rouge/Bluefin tuna/Thunnus maccoyii | | |
| Albacore/Yellowfin tuna/Thunnus albacares | | |
| Patudo/Bigeye tuna/Thunnus obesus | | |
| Germon/Albacore/Thunnus alalunga | | |
| Espadon/Swordfish/Xiphias gladius | | |
| Makaire/Strip marlin/Tetrapturus audax | | |
| Marlin/Black marlin/Makaira indica | | |

| | | |
|--|--|--|
| Voiliers/Sailfish/<i>Istiophorus spp</i> | | |
| Listao/Skipjack/<i>Katsuwonus pelamis</i> | | |
| Divers/Others | | |
| | | |
| | | |
| TOTAL | | |

DECLARATION DE SORTIE DE LA ZONE ECONOMIQUE EXCLUSIVE DE MADAGASCAR

DEPARTURE REPORT OF MADAGASCAR ECONOMIC EXCLUSIVE ZONE

INFORME DE SALIDA DE LA ZEE DE MADAGASCAR

A/TO: Centre de Surveillance des Pêches du Ministère de la Pêche et des Ressources Halieutiques – Madagascar

e-mail: msp-mprh@blueline.mg

Fax: 00 261 20 22 490 14

DE/FROM:

Nom du navire/Name of the vessel/Nombre del buque:

Indicatif d'appel par radio/Call sign:

Numéro de la licence/Number of the autorisation/Licencia N°:

Nationalité/Nationality:

Type de bateau/Kind of vessel:

Date de sortie/Date of leaving/Fecha de salida:

Heures de sortie/Time of leaving/Hora de salida:

Position de sortie/ Position of leaving/Posicion de salida:

Capture à bord à la sortie de la zone/Fish or catch on board before leaving the zone/Pescado a bordo:

| Capture/Catch/Pescado | Nombre/# | Poids/Weight |
|--|----------|--------------|
| Thon rouge/Bluefin tuna/ <i>Thunnus maccoyii</i> | | |
| Albacore/Yellowfin tuna/ <i>Thunnus albacares</i> | | |
| Patudo/Bigeye tuna/ <i>Thunnus obesus</i> | | |
| Germon/Albacore/ <i>Thunnus alalunga</i> | | |
| Espadon/Swordfish/ <i>Xiphias gladius</i> | | |
| Makaire/Strip marlin/ <i>Tetrapturus audax</i> | | |
| Marlin/Black marlin/ <i>Makaira indica</i> | | |
| Voiliers/Sailfish/ <i>Istiophorus spp</i> | | |

| | | |
|--|--|--|
| Listao/Skipjack / <i>Katsuwonus pelamis</i> | | |
| Divers/Others | | |
| | | |
| | | |
| TOTAL | | |