



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.8.2007
COM(2007) 473 final

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique.

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Community and the Republic of Mozambique have negotiated and initialled on 21 December 2006 a Fisheries Partnership Agreement which provides Community fishermen with fishing opportunities in the Mozambique fishing zone. This Partnership Agreement, accompanied by a Protocol and the Annex thereto, has been signed for a period of five 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 Mozambique on fishing off the coast of Mozambique and related protocol which entered into force on 1 January 2004.

The Commission's negotiating position was based in part on the results of an *ex-post* and *ex-ante* evaluation carried out by external experts.

The main objective of the new Partnership Agreement is to strengthen cooperation between the European Community and the Republic of Mozambique, thereby creating a framework of partnership in which to develop a sustainable fisheries policy and responsible exploitation of fisheries resources in the Mozambique fishing zone, in the interests of both parties. The two Parties are taking part in a political dialogue on topics of mutual interest in the fisheries sector. Within this new Fisheries Partnership Agreement, special attention will be given to supporting the fisheries policy of Mozambique. The two parties will agree on the priorities to be decided upon for such support and identify the objectives, the annual and multiannual programming and the criteria to assess the results to be obtained, with a view to ensuring a sustainable and responsible management of the sector.

The financial contribution is fixed at € 900 000 per year. It shall entirely be allocated to the support and implementation of initiatives taken in the context of the sectoral fisheries policy drawn up by the Government of Mozambique.

As regards fishing possibilities for EC vessels under this agreement, 44 purse seine vessels and 45 surface long-liners shall be allowed to fish. The Protocol fixes a reference tonnage of 10 000 tonnes of tuna per year. It is established that the EC fishing effort in Mozambique EEZ will have to be in line with appropriate tuna stock assessments based on scientific criteria, including the scientific overviews conducted by the Indian Ocean Tuna Commission (IOTC).

The Partnership Agreement will also promote economic, scientific and technical cooperation in the fisheries sector and related sectors.

The Commission proposes on this basis that the Council adopt by Decision the Agreement on form of an exchange of letters on the provisional application of the Protocol setting out, for the period from 1 January 2007 to 31 December 2011, the fishing opportunities and the financial contribution provided by the Agreement between the European Community and the Republic of Mozambique, on fishing off Mozambique.

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

Proposal for a

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concerning the conclusion of the Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique.

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The Community has negotiated with the Republic of Mozambique a Fisheries Partnership Agreement providing Community vessels with fishing opportunities in the Mozambique fishing zone.
- (2) As a result of those negotiations a new Fisheries Partnership Agreement was initialled on 21 December 2006.
- (3) The Fisheries Agreement between the European Community the Republic of Mozambique approved by Council Regulation (EC) No 2329/2003² is to be repealed by the new Fisheries Partnership Agreement.
- (4) In order to guarantee the continuation of fishing activities by Community vessels, it is essential that the new Fisheries Partnership Agreement is applied as quickly as possible. Both parties have therefore initialled an Agreement in the form of an exchange of letters providing for the provisional application of the Fisheries Partnership Agreement from 1 January 2007.
- (5) It is in the interest of the Community to approve the Agreement in the form of an exchange of letters.
- (6) The method for allocating the fishing opportunities among the Member States should be defined,

¹ OJ [...] [...] p.[...]

² OJ L 345, 31.12.2003, p. 43.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an Exchange of Letters relating to the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique , (hereinafter referred to as "the Agreement in the form of Exchange of Letters ") is hereby approved on behalf of the Community.

The text of the Agreement in the form of Exchange of Letters is attached to this Decision.

Article 2

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

Fishing Category	Type of vessel	Member State	Licences
Tuna fishing	Purse seine vessels	Spain:	23
		France:	20
		Italy:	1
Tuna fishing	Long-liners	Spain:	21
		France:	15
		Portugal:	7
		United Kingdom	2

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

Article 3

The Member States whose vessels fish under the Agreement in the form of an Exchange of Letters shall notify the Commission of the quantities of each stock caught within the Mozambique 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 seas³.

³ OJ L 73, 15.3.2001, p. 8.

Article 4

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement in the form of an exchange of letters in order to bind the Community.

Brussels

*For the Council
The President*

ANNEX

Agreement in the form of an exchange of letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique

A. Letter from the Government of Mozambique

Sir,

Referring to the Fisheries Agreement between the European Community, on the one side, and the Republic of Mozambique, on the other, initialled on 21 December 2006, including the Protocol, Annex and Appendixes thereof, setting out the fishing opportunities and the financial contribution for the period from 1 January 2007 and 31 December 2011, I have the honour to inform you that the Government of Mozambique is willing to apply the abovementioned Agreement provisionally from 1 January 2007 pending its entry into force in accordance with Article 17 thereof, 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 by 31 October 2007 at the latest.

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 Mozambique

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,

Referring to the Fisheries Agreement between the European Community, on the one side, and the Republic of Mozambique, on the other, initialled on 21 December 2006, including the Protocol, Annex and Appendixes thereof, setting out the fishing opportunities and the financial contribution for the period from 1 January 2007 and 31 December 2011, I have the honour to inform you that the Government of Mozambique is willing to apply the abovementioned Agreement provisionally from 1 January 2007 pending its entry into force in accordance with Article 17 thereof, 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 by 31 October 2007 at the latest.

I should be obliged if you would confirm the European Community's agreement to such provisional application."

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

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

On behalf of the Council of the European Union

Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique on fishing off the coast of Mozambique for the period from 1 January 2007 to 31 December 2011

Article 1

Period of application and fishing opportunities

1. For a period of five 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: 45 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 Mozambique's fishing zone only if they are in possession of a fishing licence issued under this Protocol in accordance with the Annex hereto.

Article 2

Financial contribution – Methods of payment

1. 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 650 000 equivalent to a reference tonnage of 10 000 tonnes per year and a specific amount of EUR 250 000 per year for the support and implementation of Mozambique's 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, 6 and 7 of this Protocol.
3. The Community shall pay the total amount referred to in paragraph 1, i.e. EUR 900 000, each year during the period of application of this Protocol.
4. If the overall quantity of catches by Community vessels in Mozambican 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 equivalent to the reference tonnage (EUR 1 300 000). 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 October 2007 for the first year and no later than 15 January 2008, 2009, 2010 and 2011 for the following years.
6. Subject to Article 7, the Mozambican authorities shall have full discretion regarding the use to which this financial contribution is paid.
7. The financial contribution shall be paid into a Public Treasury account opened at a financial institution designated by the Mozambican Authorities.

Article 3
Cooperation on responsible fishing – Scientific cooperation

1. The Parties hereby undertake to promote responsible fishing in Mozambican waters.
2. During the period covered by this Agreement, the Community and the Mozambican authorities shall monitor the evolution of resources in Mozambique's fishing zone.
3. As of the date of entry into force of the Protocol, the Parties shall establish by mutual agreement the arrangements for the scientific consultation provided for in Article 4(2) of the Agreement with a view to prepare the work of the Joint Committee referred to in Article 9 of the Agreement.

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 Mozambique'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 may not exceed twice the amount referred to in Article 2(1). Where the quantities caught by Community vessels exceed twice 10 000 tonnes, i.e., 20 000 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 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 one another prior to authorisation by Mozambican authorities 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 shall promote exploratory fishing activities in Mozambican waters. In this framework, whenever one of the Parties so requests, the Parties shall consult one another and determine, on a case-to-case basis, the conditions and other parameters for these fishing activities.

The two Parties shall carry out exploratory fishing activities in accordance with the parameters adopted by mutual agreement and with administrative provisions established to this effect. The authorisations for exploratory fishing shall be granted for a maximum of six months.

Where the Parties conclude that the exploratory fishing trips have produced positive results, the Mozambican Government may award new fishing opportunities for new species until the expiry of the Protocol. The financial contribution referred to in Article 2(1) shall be increased accordingly.

Article 6
Suspension in the event of serious circumstances

1. Where serious circumstances, other than natural phenomena, prevent fishing activities in Mozambican waters, 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. At the expiry of the suspension, the Parties shall agree on the circumstances in which Community vessels may resume fishing.

Article 7
Promotion of responsible fishing in Mozambican waters

1. One hundred percent of the financial contribution referred to in Article 2 shall be used to support the implementation of the sectoral fishing policy drawn up by the Mozambican Government.

Mozambique shall be responsible for managing the corresponding amount, on the basis of the objectives identified by mutual agreement by the Parties and in accordance with the annual and multiannual programming.

2. 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 Mozambique 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 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 Mozambique in its national fisheries policy and other policies relating to or having an impact on the introduction of responsible fishing and sustainable fisheries, in particular in terms of improving the health conditions of the production of fishery products and strengthening the monitoring capacity of the competent Mozambican authorities;
- (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, Mozambique 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, Mozambique 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 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 the 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 on 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, in order to reach an amicable settlement.
2. Where the amicable settlement referred to in the preceding paragraph cannot be reached and without prejudice to Article 9, the application of the Protocol may be suspended at the initiative of one Party if the dispute between the Parties is deemed serious.
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, the application of this Protocol may be suspended on the following terms:

- (a) If no payment is made within the period provided for in Article 2, paragraph 5 of this Protocol, the relevant Mozambican 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 the non-payment is confirmed or not adequately justified within the period specified in the preceding paragraph, the relevant Mozambican authorities shall be entitled to suspend application of this 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

Without prejudice to the provisions of the Agreement, this Protocol and the Annex and Appendices hereto, the activities of Community vessels operating under the framework of this

Protocol and the Annex and Appendices hereto shall be governed by the applicable law in Mozambique.

Article 11
Repeal

The Annex to the Agreement between the European Community and the Republic of Mozambique on fishing off the coast of Mozambique 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. This Protocol and the Annex and Appendices hereto shall apply with effect from 1 January 2007.

ANNEX

CONDITIONS GOVERNING ACTIVITIES BY COMMUNITY VESSELS IN MOZAMBIQUE'S FISHING ZONE

Chapter I - Application for and issuance of fishing licences

Section 1 Issuance of licences

1. Only eligible vessels may obtain a licence to fish in Mozambique's fishing zone under the Protocol establishing, for the period from 1 January 2007 and 31 December 2011, the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Mozambique.
2. For a vessel to be eligible, neither the owner, the master nor the vessel itself must be prohibited from fishing in Mozambique. They must be in order vis-à-vis the Mozambican fishing administration insofar as they must have fulfilled all prior obligations arising from their fishing activities in Mozambique under fisheries agreements concluded with the Community.
3. Community vessels applying for fishing licences may be represented by an agent residing in Mozambique. The agent's name and address shall be attached in the fishing licence application.
4. The relevant Community authorities shall submit to the Ministry responsible for fisheries in Mozambique 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 accordance with the specimen in Appendix 1.
6. All fishing licence applications shall be accompanied by the following documents:
 - proof of payment of the fee for the period of validity of the licence;
 - with the first application under the Protocol, a recent colour photograph showing a side of the vessel in its current state; the photograph shall be at least 15 cm by 10 cm;
 - the vessel's seaworthiness certificate
 - the vessel's registration certificate;
 - the vessel's health conformity certificate issued by the competent Community authority.

7. The fee shall be paid into the account specified by the Mozambican authorities in accordance with Article 2(7) of the Protocol.
8. It shall include all local and national taxes with the exception of port taxes, transshipment tax and charges for the provision of services.
9. Licences for all vessels shall be issued to shipowners or their representatives via the European Commission Delegation to Mozambique within 15 days of receipt of all the documents referred to in point 6 by the Ministry responsible for fisheries in Mozambique.

After the fishing licence is issued, the Mozambican authorities shall immediately send a copy thereof to the owner of the vessel or his/her representative by the adequate means of communication (fax, electronic mail, etc.). A copy of the fishing licence is kept on board the vessel as proof of the fishing authorisation under the Agreement. The authorities responsible for control shall be immediately informed of the issuing of the licence.

10. Where, at the time of signing, the Delegation of the European Commission were closed, the fishing licence may be given to the vessel's agent with a copy for the Delegation.
11. Licences shall be issued for a specific vessel and shall not be transferable. However, at the request of the European Community and where *force majeure* is proven, a vessel's fishing licence shall be replaced by a new fishing 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.
12. The owner of the first vessel, or his/her representative, shall return the cancelled licence to the Ministry responsible for fisheries in Mozambique via the European Commission Delegation.
13. The date of entry into force of the new fishing licence is the date indicated therein. The European Commission Delegation to Mozambique shall be informed of the fishing licence transfer.
14. Fishing licences must be held on board at all times without prejudice to the provisions of point 2 of Chapter VIII of this Annex.

Section 2
Licence conditions – fees and advance payments

1. Fishing licences shall be valid for a period of no more than one year, from 1 January to 31 December of each year at the latest. They shall be renewable.
2. The fee shall be EUR 35 per tonne caught within Mozambique's fishing zone.
3. Fishing licences shall be issued once the following fixed amounts have been paid to the competent national authorities:

- EUR 4 200 for each tuna seiner, equivalent to the fees due for 120 tonnes of highly migratory and related species caught each year;
 - EUR 3 500 for each surface longliner of more than 250 gross tonnes (GT), equivalent to the fees due for 100 tonnes of highly migratory and related species caught each year;
 - EUR 1680 for each surface longliner of less than 250 gross tonnes (GT), equivalent to the fees due for 48 tonnes of highly migratory and related species caught each year.
4. 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 Investigaç o das Pescas e do Mar (IPIMAR) via the European Commission Delegation.
 5. This statement shall be sent simultaneously to the Ministry responsible for fisheries in Mozambique and to the shipowners.
 6. Any additional payment shall be made by the shipowner to the competent Mozambican national authorities by 30 August of the following year to the bank account specified 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 only beyond 12 nautical miles from the baseline in accordance with the fishing zone defined in Appendix 4.

Chapter III – Catch reporting arrangements

1. For the purposes of this Annex, the duration of a fishing trip by a Community vessel shall be defined as follows:
 - the period elapsing between entering and leaving Mozambique's fishing zone, or
 - the period elapsing between entering Mozambique's fishing zone and a transshipment in port and/or a landing in Mozambique.
2. All vessels authorised to fish in Mozambican waters under the Agreement shall be obliged to notify the Ministry responsible for fisheries in Mozambique of their catches so that the Mozambican authorities can check the quantities caught, which shall be validated by the competent scientific institutes in accordance with the procedure referred to in point 4 of Section 2 of Chapter I of this Annex. Catches shall be notified as follows:

- 2.1 During an annual period of validity of the licence within the meaning of point 1 of Section 2 of Chapter I of this Annex, declarations shall indicate 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 Mozambique within 30 days following the end of the last trip made during the period. At the same time, a copy thereof shall be sent by fax or electronic mail to the flag Member State and to the Ministry responsible for fisheries of Mozambique.
- 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 Mozambique's fishing zone" shall be entered in the logbook in respect of periods during which the vessel is not in Mozambican waters.
- 2.3 The forms shall be filled in capital letters and legibly, and signed by the master of the vessel or by his or her legal representative.
3. Where the provisions set out in this Chapter are not complied with, the Mozambican Government reserves the right to suspend the fishing licence of the offending vessel until formalities have been completed and to apply to the shipowner the penalty laid down in current Mozambican legislation. The European Commission and the flag Member State shall be informed thereof.

Chapter IV – Transhipment and landings

The Parties shall cooperate with a view to improving landing or transhipment options in Mozambican ports.

Chapter V – Embarking seamen

1. Shipowners undertake to employ, for the tuna-fishing season in Mozambique's fishing zone, at least 20% of seamen of ACP origin, of which, if possible, at least 40% are Mozambican.
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.
4. The employment contracts of Mozambican seamen shall be drawn up in accordance with point 1 of this Chapter 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 seamen shall be paid by the shipowners. They shall be fixed by mutual agreement among the shipowners or their representatives and the authorities of the relevant ACP country prior to issuing fishing licences. However, the wage conditions granted to Mozambican seamen shall not be lower than those applicable to crews from Mozambique and shall under no circumstances be below ILO standards.

Chapter VI – Technical measures

Vessels shall comply with the measures and recommendations adopted or to be adopted by regional fishing organisations to which the Parties are members concerning fishing methods, their technical specifications and all other technical measures applicable to their fishing activities.

Chapter VII – Observers

1. Vessels authorised to fish in Mozambican waters under the Agreement shall take on board observers appointed by the IOTC with prior communication thereof to the Mozambican authorities.
2. The conditions under which observers are taken on board shall be agreed between shipowners or their representatives and the competent authority.
3. 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 copies thereof to the Mozambican Fisheries Administration and the vessel's captain.

Chapter VIII – Monitoring

1. Entering and leaving the zone
 - 1.1 Community vessels shall notify, at least three hours in advance, the competent Mozambican authorities responsible for monitoring fishing of their intention to enter or leave Mozambique's fishing zone and declare overall quantities and species on board.
 - 1.2 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 or electronic mail.
 - 1.3 Vessels found to be fishing without having notified their entry or found to have left without notifying their exit to the Mozambican fisheries administration shall be regarded as vessels in breach of the legislation.
 - 1.4 Vessels shall be informed of the fax and telephone numbers and e-mail address when the fishing licence is issued.
2. Control procedures

- 2.1 The Mozambican authorities may allow an agent on board to inspect fishing activities.
 - 2.2 The master of the vessel shall make the existing communication media available to the monitoring agent, authorise access to all the vessel compartments and permit the collection of samples.
 - 2.3 The master of the vessel shall provide food, accommodation and medical assistance on the same conditions as for the vessel's officers.
 - 2.4 These officials shall not remain on board for longer than is necessary for the discharge of their duties.
 - 2.5 Once the inspection has been completed, the agent shall prepare a report , of which a copy shall be given to the master of the vessel.
3. Satellite monitoring
 - 3.1 All Community vessels fishing under this Agreement shall be subject to satellite monitoring in line with Appendix 3 – VMS protocol.
4. Boarding
 - 4.1 The competent Mozambican authorities shall inform the flag State and the European Commission, within no more than 24 hours, of all boardings and penalties imposed on Community vessels in Mozambique's fishing area.
 - 4.2 In the event of boarding of the vessel, the latter may be, on request, immediately released if, within 72 hours, the master or the owner of the vessel pays a guarantee to be established on the basis of the relevant Mozambican legislation.
 - 4.3 In the event of an infringement procedure, notification thereof shall be sent to the Delegation of the European Commission, the flag State and the owner of the vessel with a brief report of the circumstances and reasons leading to the boarding.
5. Notice
 - 5.1 The master of the vessel shall sign the notice drawn up by the competent Mozambican authority for the occurrence.
 - 5.2 This signature shall not prejudice the rights or any defence which the master may make to the alleged infringement. If the master 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.
 - 5.3 If the infringement is considered serious according to Mozambican law, the master shall take the vessel to the port indicated by the Mozambican authorities.
6. Statements

6.1 After the notice and the statement of boarding have been drawn up, the competent bodies shall designate an investigating officer who shall notify the alleged offender, the European Commission and the flag State's representative to allow them to make statements or provide evidence in their favour at a date and time indicated by them.

7. Settlement

7.1 The launch of a fishery infringement procedure shall be decided over a maximum period of 35 days as of the date in which the relevant investigating officer is designated. Whenever the complexity of the fishery infringement procedure so requires, the deadline specified in the preceding paragraph may be prorogated by one period of 30 working days.

8. Transshipment

8.1 All Community vessels wishing to tranship catches in Mozambique's ports or port areas shall provide the competent Mozambican authorities with at least 24 hour's notice and await their prior authorisation.

8.2 For the purposes of assessing the transshipment request, the shipowners of these vessels shall indicate the following:

- the port of transshipment,
- the place where the operation shall take place, the date and time of transshipment,
- the name of the fishing vessel or of other vessel involved in transshipment,
- the tonnage by species to be transhipped.

8.3 Transshipment shall be considered as an exit from Mozambique. The vessels shall submit their catch declarations to the Mozambican competent authorities and state whether they intend to continue fishing or leave Mozambique's fishing zone.

8.4 Any transshipment of catches not covered above shall be prohibited in Mozambique's fishing zone. Any person infringing this provision shall be liable to the penalties provided for by the Mozambican legislation in force.

8.5 The masters of Community vessels engaged in landing and transshipment operations in a Mozambican port shall allow and facilitate the inspection of such operations by Mozambican inspectors. Once the inspection and control in port have been completed, an inspection report shall be issued and a copy thereof given to the master of the vessel.

APPENDIXES

1. Fishing licence application form
2. Logbook
3. VMS Protocol
4. Mozambique's fishing zone coordinates

Appendix 1
Fishing licence application model form

For industrial, semi-industrial fishing and related fishing operations

(Pursuant to Article 139)

Recto

<p>REPÚBLICA DE MOÇAMBIQUE</p> <hr style="width: 10%; margin: auto;"/> <p>MINISTRY FOR FISHERIES</p> <p style="text-align: center;">FISHING LICENCE APPLICATION</p> <p style="text-align: center;">To be completed by the applicant</p> <p>Name of shipowner:</p> <p>Address:</p> <p>P.O. Box: Telephone Fax</p> <p>Name (1):</p> <p>ID No: Issued at (place):</p> <p>Valid until:/...../..... Resident at:</p> <p>Requests the issuance of a fishing licence: (2)</p> <p>To operate in the area of:</p> <p>Based in the port of: Province:</p> <p>Fishing gear:</p> <p>Species to be caught:</p> <p style="text-align: center;">Details of the vessel (3) (4)</p> <p>1. Name Flag Registration No</p> <p>2. Port of registration Year of construction Shipyard/Country</p> <p>3. Type of hull Colour of sides Colour of superstructure</p> <p>4. Dimensions (in metres): Overall length Breadth Depth Gross tonnage tonnes</p> <p>5. Electronic equipment (6): HF Radio: VHF Radio Probe: Sonar: Satellite navigator:</p> <p style="text-align: center;">Gyroscopic compass: Radar</p> <p>6. Call sign:</p> <p>7. Main engine: Make: Power: HP</p> <p>8. Fishing gear: No. of winches: Capacity: tonnes</p> <p>Outrigger trawl(6) Stern trawl (6) No of gears</p>

Verso

9. Details of fishing gear: Length of headline:.....m

10: Preservation of the fish (6) (7):.....

Finished products:.....

Preparation work room: Y/N

Freezing: Air blast freezing: Y/N Capacity (tonnes/day):..... Temp (°C):.....

Plate freezing: Y/N Capacity (tonnes/day):..... Temp (°C):.....

In cold chamber: Y/N Capacity (tonnes/day):..... Temp (°C):.....

Cold storage: Hold 1: Capacity (tonnes/day):..... Temp (°C):.....

Cold storage: Hold 2: Capacity (tonnes/day):..... Temp (°C):.....

Cold storage: Hold 3 Capacity (tonnes/day):..... Temp (°C):.....

Chilling: Ice: Y/N Refrigerated containers Y/N Capacity (tonnes).....

Insulated hold: Y/N Capacity (tonnes).....

Refrigerated hold: Y/N Capacity (tonnes)..... Temp (°C).....

Chilled sea water: Y/N Capacity (tonnes)..... Temp (°C).....

Facilities for preserving live species: Y/N Specify

Drinking water:.....m³ Desalimators: Y/N Sanitary facilities: Y/N Number

Auxiliary processing equipment :..... Graders: Y/N Scales: Y/N

Grinders: Y/N Fish washers: Y/N Fish cookers: Y/N

Other:.....,

Date and applicant's signature

To be completed by the body issuing the fishing licence

Issue of a fishing licence authorised on...../...../.....

No of fishing licence issued:..... Valid until:

Special conditions:.....

.....,

Signature:

- (1) Name of enterprise/director, manager, etc.
- (2) Indicate the type of fishing: industrial, semi-industrial, related fisheries activities
- (3) Enclose three colour negatives showing one side of the vessel (the markings must be legible)
- (4) As indicated in title deeds.
- (5) Indicate the material: steel, wood or glass fibre.
- (6) Mark the appropriate answer with a cross.
- (7) Attach a processing flow diagram.

Appendix 2
LOGBOOK FOR TUNA FISHERY

Name of vessel:	Gross registration tonnage:		Month	Day	Year	Port		
Flag country:	Capacity – (M.T.):		Vessel DEPARTED:					
Registration No:	Captain:	Vessel RETURNED:						
Shipowner:	No. of crew members:							
Address:	Reporting date:							
Author of report:	No. of days at sea:	No. of fishing days:	No. of sets:		Fishing trip No.:			

	Longliner
	Live bait
	Purse seine
	Trawl
	Others:

Appendix 3 – VMS Protocol

setting out the provisions applicable to satellite monitoring of Community fishing vessels operating in Mozambique's fishing zone

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 Mozambique for the period from 1 January 2007 to 31 December 2011 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 Mozambique shall be monitored by satellite when fishing in Mozambique's fishing zone.

For the purposes of satellite monitoring, the latitude and longitude coordinates of the Mozambique's fishing zone are given in Appendix 4.

The Mozambican authorities shall transmit this information in electronic form, expressed in decimal degrees in the WGS 84 system.

3. The Parties shall exchange information on the specifications for electronic data transmission between their Control Centres in accordance with points 5 and 7. Such information shall include, as far as possible, 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 Mozambique's fishing zone, the subsequent position reports (vessel identification, longitude, latitude, course and speed) shall be transmitted immediately by the Control Centre of the flag State to Mozambique's Fisheries Monitoring Centre (FMC) at two-hour intervals. The messages concerned shall be identified as position reports.
6. The messages referred to in point 5 shall be sent by electronic mail according to the Internet security protocol or other security protocol. They shall be sent 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 in point 5 to the Control Centre of the flag State and Mozambique's FMC in good time. It will be necessary in those circumstances to send a global position report on a nine-hourly basis. 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 to Mozambique's FMC. The faulty equipment shall be repaired or replaced within a period of not more

than thirty calendar days. After this deadline, the vessel in question must leave Mozambique's fishing zone.

8. The Control Centres of the flag States shall monitor the movements of their vessels in Mozambican waters. If the vessels are not being monitored in accordance with the conditions laid down, Mozambique's FMC shall be informed as soon as this is discovered and the procedure laid down in point 7 shall be applicable.
9. If Mozambique'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 Mozambican authorities in controlling and monitoring the Community fleet fishing under the Fisheries Agreement between the European Community and Mozambique. 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.

The master of the vessel 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.

TRANSMISSION OF VMS MESSAGES TO MOZAMBIQUE

POSITION REPORT

Data Element	Code	Mandatory/ Optional	Notes
Start record	SR	M	System detail – indicates start of record
Recipient	AD	M	Message detail – recipient. Alpha 3 ISO country code
Sender	EN	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 (flag State ISO-3 code followed by number)
External registration number	XR	M	Vessel detail – number marked on side of vessel
Latitude expressed in "decimal numbers"	LT	M	Vessel position detail – position in degrees, minutes and seconds N/S +/- DD.ddd (WGS-84)
Longitude expressed in "decimal numbers"	LG	M	Vessel position detail – position in degrees, minutes and seconds E/W +/- DD.ddd (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 TUC position (YYYYMMDD)
Time	TI	M	Vessel position detail – time of record of TUC 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 MOZAMBIQUE'S FMC

Name of FMC:

VMS Tel.:

VMS Fax:

VMS E-mail:

DSPG Tel.:

DSPG Fax:

IP address:

Entry/exit declaration:

Appendix 4

Mozambique's fishing zone

Points	Latitude	Longitude	Obs.
1	26°50'S	37°36'E	
2	26°00'S	38°15'E	
3	25°10'S	38°38'E	
4	24°45'S	38°24'E	
5	22°42'S	37°54'E	
6	21°34'S	37°30'E	
7	20°03'S	37°58'E	
8	16°38'S	41°18'E	
9	15°40'S	42°31'E	
10	11°50'S	41°45'E	
11	10°26'S	42°05'E	