



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL REGULATION

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Government of Mauritius expired on 2 December 2002. Mauritius was unable to obtain by that date scientific opinions and reports which it was awaiting regarding certain aspects of its fisheries sector. In view of the importance of these reports, Mauritius considered that the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement could not be held until these reports had been obtained.

The two parties accordingly decided to extend for another year, from 3 December 2002 to 2 December 2003, the Protocol which was about to expire. This extension, in the form of an Exchange of Letters, was initialled by the two Parties on 21 November 2002 and sets out the technical and financial conditions governing the fishing activities of Community vessels in Mauritian waters for the period from 3 December 2002 to 2 December 2003.

The Commission proposes on this basis that the Council adopt the Agreement in the form of an Exchange of Letters on the extension of the Protocol.

A proposal for a Council Decision on the provisional application of the Agreement in the form of an Exchange of Letters concerning the extension pending its definitive entry into force 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) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²

Whereas:

- (1) In accordance with Article 12(3) of the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters³, the Contracting Parties must enter into negotiations, before the end of the period of validity of the Protocol to the Agreement, in order to determine by common accord the terms of the Protocol for the following period and, where appropriate, any necessary amendments or additions to the Annex.
- (2) Since, in the absence of information which it was awaiting, Mauritius was not ready to begin the negotiations, the two Parties decided to extend the existing Protocol⁴ approved by Regulation (EC) No 444/2001⁵ for a period of one year by means of an Agreement in the form of an Exchange of Letters, pending the negotiations on the amendments to be made to the Protocol.
- (3) It is in the Community's interest to approve that extension.
- (4) The allocation of the fishing opportunities among the Member States should be confirmed,

¹ OJ C [...] [...] p. [...]

² Opinion delivered on (not yet published in the Official Journal).

³ OJ L 159, 10.6.1989, p. 2.

⁴ OJ L 180, 19.7.2000, p. 30.

⁵ OJ L 64, 6.3.2001, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2002 is hereby approved on behalf of the European Community.

The text of the Agreement is attached to this Regulation.

Article 2

The fishing opportunities fixed in Article 1 of the Protocol shall be allocated among the Member States as follows:

- Tuna seiners: France 20, Spain 20, Italy 2, United Kingdom 1;
- Surface longliners: Spain 19, France 13, , Portugal 8;
- Vessels fishing by line: France 25 grt per month, based on an annual average.

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

Article 3

The Member States whose vessels fish under this Agreement shall notify the Commission of the quantities of each stock caught within the Mauritian fishing zone in accordance with Commission Regulation (EC) No 500/2001⁶.

Article 4

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at...., ...

*For the Council
The President*

⁶ OJ L 73, 15.3.2001, p. 8.

AGREEMENT

in the form of an Exchange of Letters concerning the extension of the Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of Mauritius on fishing in Mauritian waters for the period 3 December 2002 to 2 December 2003

A. Letter from the Community

Sirs,

I have the honour to confirm that we agree to the following interim arrangements for the extension of the Protocol currently in force (3 December 1999 to 2 December 2002) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of Mauritius, pending the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement:

1. The arrangements applicable over the last three years will be extended for the period from 3 December 2002 to 2 December 2003.

The Community's financial contribution under the interim arrangements will correspond to the yearly amount provided for in Article 2 and, *pro rata temporis*, to the annual amount provided for in Article 3 to the Protocol currently in force. This financial contribution will be paid by 1 June 2003 at the latest. The conditions governing the payment of the amount provided for in Article 6 will also apply.

2. During the interim period, fishing licences will be granted within the limits set in Article 1 of the Protocol currently in force, by means of fees or advances corresponding to those set in point 1 of the Annex to the Protocol.

I should be obliged if you would acknowledge receipt of this letter and confirm that you are in agreement with its contents.

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

On behalf of the Council of the European Union

B. Letter from the Government of Mauritius

Sirs,

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

"I have the honour to confirm that we agree to the following interim arrangements for the extension of the Protocol currently in force (3 December 1999 to 2 December 2002) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of Mauritius, pending the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement:

1. The arrangements applicable over the last three years will be extended for the period from 3 December 2002 to 2 December 2003.

The Community's financial contribution under the interim arrangements will correspond to the yearly amount provided for in Article 2 and, *pro rata temporis*, to the annual amount provided for in Article 3 to the Protocol currently in force. This financial contribution will be paid by 1 June 2003 at the latest. The conditions governing the payment of the amount provided for in Article 6 will also apply.

2. During the interim period, fishing licences will be granted within the limits set in Article 1 of the Protocol currently in force, by means of fees or advances corresponding to those set in point 1 of the Annex to the Protocol."

I have the honour to confirm that the above is acceptable to the Government of Mauritius and that your letter and this letter constitute an agreement in accordance with your proposal.

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

Letter from the Government of Mauritius

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): External aspects of fisheries policy

Activity(ies): International Fisheries Agreements

TITLE OF ACTION

EXTENSION OF THE PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND FINANCIAL COMPENSATION UNDER THE EC/MAURITIUS AGREEMENT FOR THE PERIOD 3 DECEMBER 2002 TO 2 DECEMBER 2003.

1. BUDGET LINE(S) + HEADING(S)

B78000: "International Fisheries Agreements"

2. OVERALL FIGURES

2.1 Total allocation for action (Part B): €412 500 in payment appropriations

2.2 Period of application: 3.12.2002 to 2.12.2003

2.3 Overall multiannual estimate of expenditure: €451 675 in payment appropriations

(a) Schedule of commitment appropriations/payment appropriations (financial intervention)
(see point 6.1.1)

Figures in €

	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and subs. fin. years	Total
Commitments	412 500	---	---	---	---	---	412 500
Payments	412 500	---	---	---	---	---	412 500

(b) Technical and administrative assistance and support expenditure (see point 6.1.2)

Commitments							
Payments							

Subtotal a+b							
Commitments	412 500	---	---	---	---	---	412 500
Payments	412 500	---	---	---	---	---	412 500

(c) Overall financial impact of human resources and other administrative expenditure (see points 7.2 and 7.3)

Commitments / payments	39 175	---	---	---	---	---	39 175
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TOTAL a+b+c							
Commitments	451 675	---	---	---	---	---	451 675
Payments	451 675	---	---	---	---	---	451 675

2.4 Compatibility with financial programming and financial perspective

Proposal compatible with existing financial programming.

This proposal will entail reprogramming of the relevant heading in the financial perspective.

This may entail application of the provisions of the Interinstitutional Agreement.

2.5 Financial impact on revenue:

No financial implications (involves technical aspects regarding implementation of a measure)

OR

Financial impact - the effect on revenue is as follows:

Note: All details and observations pertaining to the method of calculating the effect on revenue should be included in a separate annex to this financial statement.

€ million (to one decimal place)

Budget line	Revenue	Prior to action n (year n-1)	Situation following action							
			Year n ³	n+1	n+2	n+3	n+4	n+5		
	(a) <i>Revenue in absolute terms¹</i>									
	(b) <i>Change in revenue²</i>	Δ								

3. BUDGET CHARACTERISTICS

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
CE	DA	NO	NO	NO	4

4. LEGAL BASIS

Article 37 of the Treaty, in conjunction with Article 300(2) and the first subparagraph of Article 300(3).

EC/Mauritius Fisheries Agreement (OJ L 159, 10.6.1989).

5. DESCRIPTION AND GROUNDS

5.1 Need for Community intervention

5.1.1 Objectives pursued

The Protocol to the Fisheries Agreement between the European Community and the Government of Mauritius expired on 2 December 2002. Mauritius was unable to obtain by that date scientific opinions and reports which it was awaiting regarding certain aspects of its fisheries sector. In view of the importance of these reports, Mauritius considered that the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement could not be held until these reports had been obtained.

The two parties accordingly decided to extend for another year, from 3 December 2002 to 2 December 2003, the Protocol which was about to expire. This extension, in the form of an Exchange of Letters, was initialled by the two Parties and sets out the technical and financial conditions governing the fishing activities of Community vessels in Mauritian waters for the period from 3 December 2002 to 2 December 2003.

The purpose of this extension is to allow Community shipowners to continue fishing in the exclusive economic zone (EEZ) of Mauritius pending the negotiations on the amendments to be made to the Protocol.

5.1.2 Measures taken in connection with ex ante evaluation

The Protocol is the fifth since the entry into force in 1990 of the framework Agreement between the two parties. The Agreement is one of a series on tuna fisheries in the Indian Ocean.

The importance of the Agreement to the Community fleet operating in the Indian Ocean and the satisfactory rate of use made of the fishing opportunities in the expired Protocol justify renewing the Protocol.

A feature of tuna fishing which is directly related to the highly migratory nature of the species is the fact that the actual catch in a given zone can vary very significantly from one fishing year to the next.

The catches taken by the Community fleet in the waters of the non-member country cannot therefore be known in advance. As in all other tuna agreements, therefore, the Community pays a fixed amount in direct proportion to an expected catch weight ("reference weight"), calculated on the basis of the average catches recorded during previous years and adjusted where necessary according to the number of vessels authorised to fish. If the expected catch weight is exceeded, an additional amount is paid. If the expected catch is not achieved, the non-member country keeps the amount initially paid.

In the case of Mauritius, during the validity period of the 1992/2002 Protocol, the uptake of licences by Community shipowners for tuna fishing in the last year of the Protocol was satisfactory: 74.5% on average for tuna seiners and 77.5% for surface longliners (see following table).

**Utilisation of the Community/Mauritius Fisheries Agreement
(based on number of vessels)**

Type of vessel:	Fishing opportunities offered	1999/2000	2000/2001	2001/2002
		Utilisation	Utilisation	Utilisation
Tuna seiners	43	28	33	32
Surface longliners:	40	15	21	31
TOTAL	82	43	54	63

Overall, catches fell short of the reference weight, but had increased since 2000, as the following table shows:

**Utilisation of the Community/Mauritius Fisheries Agreement
Annual catches of tuna seiners and surface longliners (in tonnes)**

	1996	1997	1998	1999	2000	2001
Spain	–	1 244	20	–	1 058	n/a
France	402	1 888	94	156	3 010	1 496
Portugal	–	–	–	–	–	–
Italy	–	–	–	–	–	–
United Kingdom	–	–	–	–	–	–
Total	402	3 132	114	156	4 068	n/a

5.1.3 Measures taken following ex post evaluation

The appropriate Mauritian authorities made satisfactory use of the amount earmarked for targeted measures in the 1999-2002 Protocol. However, some late payment applications were recorded by the Mauritian authorities, resulting in payments also being late. The Mauritian Ministry employees responsible for fisheries have been made aware of this situation via our Delegation in Port Louis, with a view to avoiding a recurrence during the period of this new Protocol and ensuring that a complete programme is submitted in time for each measure planned.

5.2 Actions envisaged and arrangements for budget intervention

For the period from 3 December 2002 to 2 December 2003, the Community will pay an overall financial contribution of €412 500. This financial contribution must be paid no later than 1 June 2003 into an account indicated by the Government of Mauritius for the benefit of the Public Treasury.

Half of this amount (€206 250) will be earmarked for targeted measures aimed at developing the fisheries sector in Mauritius (development of scientific and technical programmes, establishment of a vessel monitoring and control system (VMS) for vessels fishing in Mauritian waters, study grants and training courses).

The Agreement is clearly profitable in that the value of catches far exceeds the cost of the Protocol. The unit cost of each tonne of tuna caught is €75 payable by the Community and €25 payable by the shipowners (in the previous Protocol the unit cost was €80 for the Community and €20 for the shipowners). The average commercial value of tuna is around €1 000 per tonne.

In addition to the direct commercial value of the catches of the vessels concerned, there are the following evident benefits from this Agreement:

- guaranteed employment on board fishing vessels;
- the multiplier effect on jobs for the ports, auctions, processing factories, shipyards, service industries, etc.;
- these employment opportunities are in regions where no other opportunities are available;
- contribution to the supply of fish to the Community.

It should be remembered that the guidelines laid down by the Council for negotiating fisheries agreements with the ACP countries specify that account must be taken of the Community's interest in maintaining or establishing fisheries relations with the countries concerned.

5.3 Methods of implementation

The Commission is solely responsible for implementing the Protocol and will do so through its officials posted in both Brussels and its Delegation in Mauritius.

6. FINANCIAL IMPACT

6.1 Total financial impact on Part B (over the entire programming period)

6.1.1 Financial intervention

Figures in €

Breakdown	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and subs. fin. years	Total
Financial compensation	206 250						206 250
Targeted measures	206 250						206 250
TOTAL	412 500						412 500

6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and subs. fin. years	Total
(1) Technical and administrative assistance:							
(a) Technical assistance offices							
(b) Other technical and administrative assistance: - intra-muros: - extra-muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							
(2) Support expenditure							
(a) Studies							
(b) Meeting of experts							
(c) Information and publications							
Subtotal 2							
TOTAL							

6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)

Figures in €

Breakdown	Type of outputs (projects, files, etc.)	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
Actions 1, 2 and 3	Fishing opportunities in exchange for a financial contribution	43 tuna seiners, 40 surface longliners, 25 grt per month for fishing by line	€412 500	€412 500
TOTAL COST				€412 500

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

7.1. Impact on human resources

Types of post	Staff to be assigned to management of the action using existing and/or additional resources		Total men/months	Description of tasks deriving from the action
	Number of permanent Posts	Number of temporary posts		
Officials or temporary staff	A B C	1 1 1	3 0.5 1.5	These human resources represent the entire unit responsible for bilateral agreements.
Other human resources				
Total		3	5	

7.2 Overall financial impact of human resources

Type of human resources	Amount in €	Method of calculation *
Officials Temporary staff	33 375	(100 000/12*3)+(60 000/12*0.5) + (47 000/12*1.5)
Other human resources (Budget lines A-7000 and A-7003)		
Total	33 375	

The amounts are total expenditure for twelve months.

7.3 Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount in €	Method of calculation
Overall allocation (Title A7)		
A0701 - Missions	5 800	
A07030 - Meetings	0	
A07031 - Compulsory committees ⁽¹⁾	0	
A07032 - Non-compulsory committees ⁽¹⁾	0	
A07040 - Conferences	0	
A0705 - Studies and consultations		
Other expenditure (state which)		
Information systems (A-5001/A-4300)		
Other expenditure - Part A (state which)		
Total	5 800	

The amounts are total expenditure for twelve months.

⁽¹⁾ Specify the type of committee and the group to which it belongs.

I.	Annual total (7.2 + 7.3)	€39 175
II.	Duration of action	1 year
III.	Total cost of action (I : 4)	€39 175

It is impossible to quantify the impact of an individual protocol on the workload of the unit in DG FISH responsible for this dossier.

Renewing protocols under existing fisheries agreements is one of the unit's activities but does not in itself have a specific impact on administrative expenditure.

If the protocol had not been extended (initialled), this would also have resulted in a significant workload and substantial expenditure on visits and meetings.

Human and administrative resources requirements shall be covered within the allocation granted to the managing DG.

8. FOLLOW-UP AND EVALUATION

8.1 Monitoring system

Within three months of the anniversary date of the Protocol, the Mauritian Ministry responsible for fisheries must present the Commission with an annual report on the implementation of these measures and the results achieved. The Commission reserves the right to request the Mauritian authority responsible for fisheries for any additional information on the results achieved and to review payments in the light of the actual implementation of the measures.

Within a Joint Committee, meeting at the request of either Party, the Community and Mauritius may consult one another on questions relating to the implementation and proper

functioning of this Agreement. In the event of any dispute over the interpretation or application of this Agreement, consultations shall be held between the Parties.

8.2 Arrangements and schedule for the planned evaluation

Before the Protocol is renewed in December 2003, the entire period which it covers (3 December 2002 to 2 December 2003) will be evaluated, measuring indicators relating to results (catches, values of catches) and impact (number of jobs created and maintained, relation between the cost of the Protocol and the value of catches). In order to guarantee sustainable fisheries in the region, this evaluation will be carried out prior to any renewal of the protocols in the future.

9. ANTI-FRAUD MEASURES

Since the financial contributions are made by the Community in direct exchange for the fishing opportunities offered, the non-member country uses them for whatever end it chooses. However, it is required to report to the Commission, as provided for in the Protocol, on the use of certain funds. All the measures provided for in Article 3 of the Protocol are subject to an annual report on their implementation and the results achieved. The Commission reserves the right to request additional information on the results achieved and to review payments in the light of the actual implementation of the measures.

In addition, the Member States whose vessels operate under this Agreement must certify to the Commission the accuracy of the data indicated in the tonnage certificates of the vessels, so that the licence fees may be calculated on a guaranteed basis.

The extended Protocol also requires Community shipowners to fill out catch statements, (which must be transmitted to the Commission and the Mauritian authorities) which then serve as the basis for drawing up the final statement of catches under the Protocol and the corresponding fees.