



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 2000-01 Protocol setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast for the period 1 January to 31 December 2002

(presented by the Commission)

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Revolutionary People's Republic of Guinea is due to expire on 31 December 2001. Pending the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement, the two parties have decided to extend the expired Protocol for a further year. This extension of the Protocol, by means of an Agreement in the form of an Exchange of Letters, was initialled by both parties on 22 October 2001 and sets out the technical and financial conditions governing the fishing activities of Community vessels off the Guinean coast during the period 1 January 2002 to 31 December 2002.

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) The European Community and the Republic of Guinea have held negotiations to determine the amendments or additions to be made to the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast³ at the end of the period of application of the Protocol thereto.
- (2) During the negotiations, the two parties have decided to extend the current Protocol⁴ for one year, from 1 January 2002 to 31 December 2002, by means of an Agreement in the form of an Exchange of Letters initialled on 22 October 2001, pending the conclusion of 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 for trawlers and tuna boats among the Member States should be confirmed,

¹ OJ C ...

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

³ OJ L 111, 27.4.1983, p. 1.

⁴ The current Protocol was approved by Council Regulation (EC) No 445/2001 of 26 February 2001 (OJ L 64, 6.3.2001). For the text of the Protocol, see OJ L 250, 5.10.2000.

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 the Revolutionary People's Republic of Guinea on fishing off the Guinean coast for the period 1 January 2002 to 31 December 2002 is hereby approved on behalf of the European Community.

The text of this Agreement is attached to this Regulation.

Article 2

The fishing opportunities for trawlers and tuna boats fixed in Article 1 of the Protocol shall be allocated *pro rata temporis* among the Member States as follows:

(a) fin-fish/cephalopods	Spain	844 GRT
	Italy	750 GRT
	Greece	906 GRT
(b) shrimps	Spain	1 050 GRT
	Portugal	300 GRT
	Greece	150 GRT
(c) tuna seiners	France	19 vessels
	Spain	19 vessels
(d) pole-and-line tuna vessels	France	7 vessels
	Spain	7 vessels
(e) surface longliners	Spain	14 vessels
	Portugal	2 vessels

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

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

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

Done at

For the Council
The President

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 the Revolutionary People's Republic of Guinea on fishing off the Guinean coast for the period 1 January to 31 December 2002

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 (1 January 2000 to 31 December 2001) setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast, pending the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement:

1. The arrangements applicable over the last two years will be extended for the period from 1 January to 31 December 2002. The Community's financial contribution under the interim arrangements will correspond to the yearly amount provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 30 June 2002. Payment of the financial contribution provided for in Article 6 and the terms relating thereto 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. The fees applicable to trawlers will be those for the second year.

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 the Republic of Guinea

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 (1 January 2000 to 31 December 2001) setting out the fishing opportunities and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Revolutionary People's Republic of Guinea on fishing off the Guinean coast, pending the negotiations on the amendments to be made to the Protocol to the Fisheries Agreement:

3. The arrangements applicable over the last two years will be extended for the period from 1 January to 31 December 2002. The Community's financial contribution under the interim arrangements will correspond to the yearly amount provided for in Article 2 of the Protocol currently in force. Payment will be made no later than 30 June 2002. Payment of the financial contribution provided for in Article 6 and the terms relating thereto will also apply.
4. 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. The fees applicable to trawlers will be those for the second year.

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

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

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

For the Government of the Republic of Guinea

LEGISLATIVE FINANCIAL STATEMENT

Policy area(s): External aspects of certain Community policies

Activity(ies): International Fisheries Agreements

TITLE OF OPERATION: EXTENSION OF THE 2000-01 PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND FINANCIAL COMPENSATION UNDER THE EC/REPUBLIC OF GUINEA FISHERIES AGREEMENT FOR 1 JANUARY TO 31 DECEMBER 2002.

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

B78000: International Fisheries Agreements

2. OVERALL FIGURES

2.1 Total allocation for action (Part B): EUR 3.33 million for commitment/payment

2.2 Period of application: 1.1.2002 to 31.12.2002

2.3 Overall multiannual estimate of expenditure: EUR 3.33 million

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

EUR million (to three decimal places)

	Year n	n + 1	n + 2	n + 3	N + 4	n + 5 and subs. years	Total
Commitment appropriations	3.330	---	---	---	---	---	3.330
Payment appropriations	3.330	---	---	---	---	---	3.330

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

Commitments							
Payments							

Subtotal a+b							
Commitments	3.330						3.330
Payments	3.330						3.330

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

Commitments/payments	1.154						
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TOTAL a+b+c							
Commitments	4.484						4.484
Payments	4.484						4.484

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.

EUR million (to one decimal place)

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

3. BUDGET CHARACTERISTICS

Type of expenditure		New	Participation EFTA	Participation applicant countries	Heading Financial Perspective
CE	DA	NO	NO	NO	No

4. LEGAL BASIS

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

EC/Republic of Guinea Agreement (OJ L 111, 27.4.1983).

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 Republic of Guinea is due to expire on 31 December 2001.

The two parties have decided to extend the current Protocol for one year, from 1 January 2002 to 31 December 2002, by means of an Agreement in the form of an Exchange of Letters initialled on 22 October 2001. The purpose of this extension is to allow Community shipowners to continue fishing (in particular for shrimp, demersal fish species, cephalopods and tuna) in Guinea's exclusive economic zone (EEZ) pending the negotiations on the amendments to be made to the Protocol.

5.1.2 Measures taken in connection with ex ante evaluation

The 2000-01 protocol (from 1 January 2000 to 31 December 2001) has been evaluated by the relevant departments of the Commission's Fisheries DG.

In view of the short life of the protocol (two years), the *ex-ante* evaluation of the protocol expiring on 31 December 2001 did not yield the evaluation data needed to prepare a proper negotiation strategy. In particular, the Commission did not have any information on compliance in 2001 with the conditions for payment of the financial contribution (Article 6 of the Protocol), the purpose of which is to implement a plan to reduce the overall fishing effort with a view to allowing the recovery of certain demersal stocks (verification will not be possible until early 2002).

Although the verification on 2000, carried out in February 2001, was positive (so that the contribution was paid), it was not thought appropriate to embark on negotiations for a new protocol before knowing whether Guinea had fulfilled the conditions for payment of the 2001 contribution and whether the plan to reduce overall fishing effort had produced the hoped-for results. This is particularly relevant since there is little scientific knowledge available on the state of stocks and the results of studies assessing those stocks are expected in 2002.

Since it is not possible to have such important information, both the Community and the Government of the Republic of Guinea have agreed to extend the current Protocol for one year. This solution will make it possible to gather more data on the state of stocks in the Guinean EEZ and, in particular, to assess the impact of the conservation measures implemented under the current Protocol over three years instead of two.

Concerning evaluation of the 2000-01 Protocol, no major difficulties arose in its implementation and the utilisation rates for the various categories on the whole were satisfactory. As mentioned above, the conditions for paying the annual contribution of EUR 370 000 for 2000 were met, and the contribution was thus paid.

5.1.3 Measures taken following ex post evaluation

No full *ex-post* evaluation has been possible because of the short life of the Protocol. The 2000-01 Protocol has therefore been extended and negotiations on a new protocol have been put off for one year.

5.2 Actions envisaged and budget intervention arrangements

Extending the current Protocol enables Community fishermen to continue to fish in waters over which the Republic of Guinea has sovereignty or jurisdiction from 1 January 2002 to 31 December 2002.

For the extension period, the Community will thus pay a total financial contribution of EUR 2 960 000 (of which EUR 1 600 000 will be paid by way of financial compensation to the Public Treasury and the rest (EUR 1 360 000) will be used to finance targeted measures). The financial compensation must be paid to the Guinean authorities before 30 June 2002, and will be used as the Republic of Guinea sees fit.

The overall financial contribution can be increased by the contribution provided for in Article 6 which concerns the implementation of a reduction in the overall fishing effort in the Republic of Guinea. The amount of that contribution may not exceed EUR 370 000/year, which brings the maximum total financial contribution to EUR 3 300 000.

Of the total financial contribution, EUR 1 360 000 are explicitly earmarked for specific measures to develop fisheries (scientific research, surveillance at sea, training, aid for non-industrial fisheries, etc). These measures account for 46% of the total cost of the Agreement. This shows the Commission's concern to ensure not only the development of fisheries activities for Community vessels but also sustainable development of fisheries in the Republic of Guinea and closer monitoring of the implementation of measures (see Article 4 of the Protocol).

The shipowners' fees are confirmed at the same level as for the second year of application of the 2000-01 Protocol.

The Agreement is clearly profitable in that the value of the cephalopods, fish and demersal species that can be caught in the Republic of Guinea under the Agreement far exceeds its cost. In addition to the direct sale value of catches, the Agreement also offers the following advantages:

- guaranteed employment on board fishing vessels,

- the multiplier effect on jobs for the ports, auctions, processing factories, shipyards and service industries in the regions concerned,
- these jobs are created in regions where there are no alternatives to fishing,
- guaranteeing supply to the Community market in fishery products.

Clearly, the list of advantages must include the importance of relations with the Republic of Guinea, both in the fisheries sector and in the political sphere.

It should be remembered that the guidelines laid down by the Council for negotiating fisheries agreements with ACP States 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 the Republic of Guinea.

6. FINANCIAL IMPACT

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

6.1.1 Financial intervention

Commitments in EUR million (to three decimal places)

Breakdown	Year n	n + 1	n + 2	n + 3	n+ 4	N + 5 and subs. years	Total
Action 1							
Action 2							
Etc.							
TOTAL							

6.1.2 Technical and administrative assistance and support expenditure (commitment appropriations)

	Year n	n + 1	n + 2	n + 3	n + 4	N + 5 and subs. 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) Meetings 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)

Commitments in EUR million (to three decimal places)

Breakdown	Type of outputs (projects, files)	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1</u> - Measure 1 - Measure 2 <u>Action 2</u> - Measure 1 - Measure 2 - Measure 3 <i>Etc.</i>	Fishing opportunities in exchange for a financial contribution	4 000 GRT for trawlers and 68 tuna boats	EUR 3.300 million	EUR 3.300 million/year
TOTAL COST				EUR 3.300 million

7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

The requirements for human and administrative resources must be covered from the administering DG's allocation.

7.1. Impact on human resources

Type of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A	6		6	These human resources represent the entire unit responsible for bilateral agreements.
	B	1		1	
	C	2		2	
Other human resources			1 SNA + 1 AUX B	2	
Total		9	2	11	

7.2 Overall financial impact of human resources

Type of human resources	Amount in EUR	Method of calculation *
Officials Temporary staff	972 000	EUR 108 000 * 9 (title A1, A2, A4, A5, A7)
Other human resources (Budget lines A-7000 and A-7003)	98 372	EUR 42 816 (SNA) + EUR 55 556 (AUX B)
Total	1 070 372	

The amounts are total expenditure for twelve months.

7.3 Other administrative expenditure deriving from the action

Budget line (Number and heading)	Amount in EUR	Method of calculation
Overall allocation (Title A7)		
A0701 - Missions	82 243	
A07030 - Meetings	1 371	
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	83 614	

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)	EUR 1 153 986
II.	Duration of action	1 year
III.	Total cost of action (I : 4)	EUR 1 153 986

It is impossible to quantify the impact of an individual protocol on the work load of the unit in the Fisheries DG 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 equally have resulted in a significant work load and substantial expenditure on visits and meetings.

8. FOLLOW-UP AND EVALUATION

8.1 Follow-up arrangements

The financial compensation (EUR 1 600 000) is paid into an account indicated by the Guinean authorities, opened with the Public Treasury. The Republic of Guinea is solely responsible for the use to which this compensation is put.

The amounts allocated to financing the targeted measures (EUR 1 360 000) are made available to the Ministry responsible for fisheries on the basis of the programming in Article 4 of the Protocol.

Utilisation of the fishing opportunities is under permanent assessment in terms of both licences issued and catches.

A report on the utilisation of the funds earmarked for the targeted measures must be submitted to the Commission not later than three months after the anniversary date of the Protocol. The Commission is entitled to request additional information and to review the payments concerned in the light of the actual implementation of the measures.

To ensure that the Protocol is applied properly, the Community and the Republic of Guinea can meet whenever necessary to discuss any matter concerning implementation of the Protocol in a Joint Committee.

8.2 Arrangements and schedule for the planned evaluation

Before the Protocol can be renewed in 2002, the entire period (2000-02) of the 2000-01 Protocol together with the one-year extension will be evaluated, measuring the results (catches, value of catches) and impact (number of jobs created and safeguarded, ratio of cost of the Protocol to value of the catches).

The Commission will conduct an *ad hoc* verification visit in the early months of 2003 to verify compliance with the conditions for payment of the contribution (EUR 370 000) for reduction of the overall fishing effort provided for in Article 6 of the Protocol.

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 4 of the Protocol are subject to an annual report on their implementation and on the results achieved. The Commission reserves the right to request additional information on the results achieved and to review payments in the light of actual implementation of the measures.

In addition, the Member States whose vessels operate under this Agreement must certify to the Commission the exactness 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 Guinean authorities) which then serve as the basis for drawing up the final statement of catches under the Protocol and the corresponding fees.