COUNCIL REGULATION (EC) No 2348/2002

of 9 December 2002

on the conclusion of the Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

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 Commission [1],

Having regard to the opinion of the European Parliament,

Whereas:

(1) In accordance with the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé [2], the Community and the Democratic Republic São Tomé have held negotiations with a view to determining the amendments or additions to be made to the Agreement at the end of the period of application of the Protocol.

(2) As a result of these negotiations, a new Protocol setting out the fishing opportunities and financial contribution provided for in the above Agreement for the period from 1 June 2002 to 31 May 2005 was initialled on 14 February 2002.

(3) It is in the Community's interest to approve the said Protocol.

(4) The allocation of the fishing opportunities among the Member States should be defined as well as their obligations to notify the catches,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe is hereby approved on behalf of the Community.

The text of the Protocol is attached hereto.

Article 2

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

— freezer tuna seiners:	France: 18
	Spain: 18
— pole-and-line tuna vessels:	Portugal: 2
— surface longliners:	Spain: 20
	Portugal: 5
— experimental deep-water fishing targeting crab (1 June 2002 to 31 May 2003 only)	Spain: 2 vessels under 250 GRT
	Portugal: 1 vessel under 250 GRT

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 Protocol shall notify the Commission of the quantities of each stock caught in the São Tomé and Príncipe fishing zone in accordance with Commission Regulation (EC) No 500/2001 [3].

Article 4

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community.

Article 5

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

[1] OJ C 262 E, 29.10.2002.
[2] OJ L 54, 25.2.1984, p. 2.
[3] OJ L 73, 15.3.2001, p. 8.

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

Done at Brussels, 9 December 2002.

For the Council
The President
H. C. SCHMIDT

ANNEX

PROTOCOL

setting out, for the period from 1 June 2002 to 31 May 2005, the fishing opportunities and the financial contribution provided for by the Agreement between the European Economic Community and the Government of the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe

Article 1

From 1 June 2002 and for a period of three years, fishing opportunities pursuant to Article 2 of the Agreement shall be as follows:

— freezer tuna seiners:	36 vessels
— pole-and-line tuna vessels:	2 vessels
— surface longliners:	25 vessels

For deep-water fishing vessels targeting crab, provision shall be made for a 12-month period of experimental fishing starting from the provisional date of application of this Protocol (1 June 2002 to 31 May 2003). During this 12-month period, three vessels under 250 GRT may fish simultaneously in São Tomé and Príncipe's exclusive economic zone (EEZ).

Article 2

The financial contribution referred to in Article 6 of the Agreement shall be fixed at:

EUR 925 000 in the first year, comprising EUR 555 000 financial compensation and EUR 370 000 for the measures referred to in Article 4 of this Protocol. The Community shall also provide financing of EUR 50 000, in the first year, for an evaluation study on deep-water crab,

EUR 637 500 in the second year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol,

EUR 637 500 in the third year, comprising EUR 382 500 financial compensation and EUR 255 000 for the measures referred to in Article 4 of this Protocol,

for tuna fishing the financial contribution shall cover an annual catch of 8 500 tonnes in São Tomé and Príncipe waters. If the tuna caught each year by Community vessels in São Tomé and Príncipe's exclusive economic zone exceeds this weight, the amount referred to above shall be proportionately increased at the rate of EUR 75 per additional tonne,

the annual financial compensation shall be payable not later than 31 December 2002, and not later than 31 May 2003 and 2004. Its use shall be the sole responsibility of the Government of the Democratic Republic of São Tomé and Príncipe. It shall be paid to the Public Treasury of São Tomé and Príncipe.

Article 3

The two parties, meeting within the framework of the Joint Committee provided for in Article 8 of the Agreement, shall consult on the basis of the results of the experimental fishing mentioned above and in the light of the best available scientific advice to include, where appropriate, sustainable levels of fishing opportunities for deep-water fishing vessels targeting crab and the financial contribution applicable from the second year of application of the Protocol. These consultations should take place before the end of the first year.

Article 4

1. The measures set out below shall be financed from the financial contribution for the first year, to the amount of EUR 370 000 per year, broken down as follows:

(a) financing of scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 50 000;

(b) stepping up surveillance, inspection and checks in the fishing zones: EUR 50 000;

(c) institutional support to the administrative department responsible for fisheries: EUR 50 000;

(d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 40 000;

(e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000;

(f) aid for small-scale fishing: EUR 145 000.

2. The measures set out below shall be financed from the financial contribution for the second and third years, to the amount of EUR 255 000 per year, broken down as follows:

(a) financing of scientific and technical programmes to promote better understanding of fisheries and living resources in the São Tomé and Príncipe fishing zone: EUR 40 000;

(b) stepping up surveillance, inspection and checks in the fishing zones: EUR 40 000;

(c) institutional support to the administrative department responsible for fisheries: EUR 40 000;

(d) study grants and practical training courses in the various scientific, technical and economic fields linked to fishing: EUR 30 000;

(e) São Tomé and Príncipe's contributions to international fisheries organisations and expenses of São Tomé and Príncipe delegates participating in international meetings concerning fisheries: EUR 35 000;

(f) aid for small-scale fishing: EUR 70 000.

The measures and the annual amounts allocated thereto shall be decided on by the São Tomé and Príncipe Ministry responsible for fisheries, which shall inform the Commission thereof.

The annual amounts, with the exception of those referred to at (d) and (e), shall be paid into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries and used under the terms of a protocol to be negotiated with the Public Treasury no later than 31 December 2002, 31 May 2003 and 31 May 2004 according to the annual schedule for their use. The amounts referred to at (d) and (e) shall be paid as they are used.

The São Tomé and Príncipe Ministry responsible for fisheries shall transmit a detailed annual report on the implementation of these measures and the results achieved to the Delegation of the Commission responsible for São Tomé and Príncipe, no later than three months after the anniversary date of the Protocol. The Commission reserves the right to request additional information on these results from the São Tomé and Príncipe Ministry responsible for fisheries and, following consultation with the São Tomé and Príncipe authorities within the framework of meetings of the Joint Committee provided for in Article 8 of the Agreement, to review the payments concerned in the light of the actual implementation of the measures.

Article 5

Should the Community fail to make the payments provided for in Articles 2 and 4, the application of this Protocol may be suspended.

Article 6

A joint scientific meeting shall be held annually to evaluate periodically within the Joint Committee the state of crab resources. Based on the findings, the fishing opportunities laid down in Article 1 of this Protocol and the financial contribution laid down in Article 2 may be adjusted after agreement between the two parties meeting within the framework of the Joint Committee.

Article 7

Should a fundamental change in circumstances prevent fishing in São Tomé and Príncipe's exclusive economic zone, the European Community may suspend payment of the financial contribution following prior consultation, if possible, between the two parties in the Joint Committee.

Payment of the financial contribution shall recommence once the situation returns to normal and following consultation between the two parties in the Joint Committee confirming that the situation is likely to allow a return to normal fishing activities.

Article 8

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

Article 9

This Protocol shall enter into force on the date on which it is signed.

It shall apply from 1 June 2002.

ANNEX

CONDITIONS GOVERNING FISHING BY COMMUNITY VESSELS IN THE SÃO TOMÉ AND PRÍNCIPE FISHING ZONE

1. **Application for and issue of licences**

The procedure for applications for, and issue of, the licences referred to in Article 4 of the Agreement shall be as follows.

The relevant Community authorities shall present to the São Tomé and Príncipe Ministry responsible for fisheries, via the Delegation of the Commission responsible for São Tomé and Príncipe, an application for each vessel that wishes to fish under the Agreement, at least 20 days before the date of commencement of the period of validity requested.

The applications shall be made on the forms provided for that purpose by the Government of the Democratic Republic of São Tomé and Príncipe, a specimen of which is attached hereto (Appendix 1).

Licences shall be issued by the São Tomé and Príncipe authorities within 20 days of submission of the application to the shipowners or their representatives via the Delegation of the Commission responsible for São Tomé and Príncipe.

Licences shall be issued for specific vessels and shall not be transferable. However, at the request of the Commission, a vessel's licence may, and where *force majeure* is proved, shall, be replaced by a new licence for another vessel whose features are similar to those of the first vessel. The owner of the first vessel shall return the cancelled licence to the São Tomé and Príncipe Ministry responsible for fisheries via the Delegation of the Commission responsible for São Tomé and Príncipe.

The new licence shall indicate:

— the date of issue,

— the fact that it replaces the licence of the previous vessel for the remaining period of validity.

In this case, no new one-off payment as laid down in points 2 and 4 shall be due.

The licence must be kept on board at all times; however, on receipt of notification of payment of the advance sent to the São Tomé and Príncipe authorities by the Commission, the vessel shall be entered on a list of vessels authorised to fish, which shall be sent to the São Tomé and Príncipe authorities responsibilities for fisheries inspection. A copy of the said licence may be obtained by fax pending arrival of the licence itself; that copy shall be kept on board.

2. **Provisions applicable to tuna seiners, pole-and-line tuna vessels and surface longliners**

Licences shall be valid for one year. They shall be renewable.

The fees provided for in Article 4 of the Agreement shall be set at EUR 25 per tonne caught in the São Tomé and Príncipe fishing zone.

The competent authorities of São Tomé and Príncipe shall communicate the detailed rules for payment of the fees, in particular the bank accounts and currencies to be used.

Licences shall be issued following payment into an account designated by the São Tomé and Príncipe Ministry responsible for fisheries to be used under the terms of a protocol to be negotiated with the Public Treasury of a one-off payment of EUR 3 750 per year for each tuna seiner, EUR 625 per year for each pole-and-line tuna vessel, EUR 1 375 per year for each surface longliner, equivalent to the fees for:

— 150 t of tuna caught per year in the case of tuna seiners,

— 25 t of tuna caught per year in the case of pole-and-line tuna vessels,

— 55 t of tuna caught per year in the case of surface longliners.

3. **Statement of catch and statement of fees due from owners of tuna seiners, pole-and-line tuna vessels and surface longliners**

A fishing log in accordance with the ICCAT model in Appendix 2 shall be kept on vessels for each fishing period spent in São Tomé and Príncipe waters. It shall be filled in even when no catches are made.

The words 'Outside São Tomé and Príncipe's EEZ' shall be entered in the abovementioned logbook in respect of periods during which the said vessels are not in São Tomé and Príncipe waters.