Council of the European Union

Brussels, 2 September 2019
(OR. en)

11825/19
ADD 1

Interinstitutional File:
2019/0173 (NLE)

PECHE 367

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 August 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2019) 377 final - ANNEXES
Subject:	ANNEXES to the Proposal for a Council Decision on the conclusion, on behalf of the European Union, of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community

Delegations will find attached document COM(2019) 377 final - ANNEXES.

Encl.: COM(2019) 377 final - ANNEXES

EUROPEAN
COMMISSION

Brussels, 30.8.2019
COM(2019) 377 final

ANNEXES 1 to 2

ANNEXES

to the

Proposal for a Council Decision

on the conclusion, on behalf of the European Union, of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community

ANNEX 1
PROTOCOL ON THE IMPLEMENTATION OF THE FISHERIES PARTNERSHIP AGREEMENT BETWEEN THE DEMOCRATIC REPUBLIC OF SÃO TOMÉ AND PRÍNCIPE AND THE EUROPEAN COMMUNITY

Article 1
Principles

1. The purpose of this Protocol is to implement the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community. The Protocol includes an annex and appendices, which form an integral part of it.

2. The two Parties shall undertake to promote responsible fishing in São Tomé and Príncipe's fishing zone on the basis of the principle of non-discrimination. São Tomé and Príncipe shall undertake to apply the same technical and conservation measures to all foreign industrial tuna fleets operating in its fishing zone, with the aim of contributing to proper fisheries governance.

3. The Parties shall undertake to ensure that this Protocol is implemented in accordance with Article 9 of the Cotonou Agreement, 'Essential elements regarding human rights, democratic principles and the rule of law, and fundamental element regarding good governance'.

4. They shall also undertake to promote sustainable development and sustainable and sound environmental management.

5. The Parties shall undertake to publish and exchange information on any agreement allowing foreign vessels to enter São Tomé and Príncipe's fishing zone and on the resulting fishing effort, the number of authorisations issued and the catches made.

6. In accordance with Article 6 of the Agreement, European Union vessels may engage in fishing activities in São Tomé and Príncipe's fishing zone only if they are in possession of a fishing authorisation issued under this Protocol, in accordance with the procedures set out in its Annex.

Article 2
Period of application and fishing opportunities

1. For a period of five (5) years from the date of provisional application, the fishing opportunities granted to European Union vessels under Article 5 of the Fisheries Partnership Agreement shall be established to allow fishing for highly migratory species (species listed in Annex 1 to the 1982 United Nations Convention on the Law of the Sea), with the exception of species protected or prohibited by ICCAT.

2. The fishing opportunities shall be allocated to:

   - 28 tuna seiners;

   - 6 surface longliners.

3. Paragraphs 1 and 2 above shall apply subject to the provisions of Articles 6, 7 and 9 of this Protocol.

Article 3
Financial contribution — Methods of payment

1. For the period referred to in Article 1, the financial contribution referred to in Article 7 of the Fisheries Partnership Agreement shall be EUR 4 200 000.

2. The financial contribution shall comprise:

   (a) an annual amount for access to São Tomé and Príncipe's fishing zone of EUR 400 000, equivalent to a reference tonnage of 8 000 tonnes per year; and

   (b) a specific amount of EUR 440 000 per year to support the implementation of São Tomé and Príncipe's sectoral fisheries policy.

3. Furthermore, the amount of fees generated in the course of a year by the activities of vessels authorised under the Protocol, calculated on the basis of the reference tonnage referred to in paragraph 2(a), is estimated, on average, at EUR 560 000.

4. Paragraph 2 above shall apply subject to Articles 4, 6, 7 and 9 of this Protocol and Articles 12 and 13 of the Fisheries Partnership Agreement.

5. For the entire period of application of the Protocol, the European Union shall pay the financial contribution referred to in paragraph 2 at the rate of EUR 840 000 per year, which corresponds to the sum of the annual amounts referred to in paragraph 2(a) and (b).

6. If the overall annual quantity of catches by European Union vessels in São Tomé and Príncipe waters exceeds the annual reference tonnage referred to in paragraph 2(a), the related annual financial contribution shall be increased by EUR 50 for each additional tonne caught.

7. The payment for additional catches shall be made in accordance with the agreement on the final statements provided for in Section 2 of Chapter II of the Annex. However, the annual amount paid by the European Union for additional catches shall not be more than twice the amount indicated in paragraph 2(a). Where the amount owed by the Union for additional catches is more than twice the annual amount referred to in paragraph 2(a), the amount of the overrun shall be paid the following year.

8. Payment of the contribution referred to in paragraph 2(a) shall be made no later than ninety (90) days after the date of provisional application of the Protocol in the first year and no later than the anniversary date of the Protocol in the following years.

9. The São Tomé and Príncipe authorities shall have full discretion regarding the use to which the financial contribution referred to in paragraph 2(a) is put, applying the principles of sound financial management.

10. The financial contribution shall be paid into public accounts as follows: the contribution provided for in paragraph 2(a) shall be paid into an account held by the Public Treasury with the São Tomé and Príncipe Central Bank; the contributions provided for in paragraphs 2(b) and 7 shall be paid into the Fisheries Development Fund account and be allocated to the budget. The São Tomé and Príncipe authorities shall notify the European Commission of the relevant bank account numbers on an annual basis.

Article 4
Sectoral support

1. Under this Protocol, sectoral support shall contribute to the implementation of the national fisheries strategy and the development of the maritime economy. It shall be

aimed at supporting the sustainable management of fisheries resources and the development of the sector, in particular by:

– improving the monitoring, control and surveillance of fisheries activities;

– improving scientific knowledge of fisheries resources;

– improving the quality of fisheries products;

– supporting the development of small-scale fishing;

– strengthening international cooperation;

– supporting the development of aquaculture.

2. No later than three (3) months after the start of provisional application of this Protocol, the Parties shall agree, within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement, on a multiannual sectoral programme and rules for implementing it, in particular:

(a) annual and multiannual guidelines for using the financial contribution referred to in Article 3(2)(b);

(b) the objectives, both annual and multiannual, to be achieved with a view to contributing to sustainable and responsible fishing, taking account of the priorities expressed by São Tomé and Príncipe with regard to fisheries policy;

(c) the criteria and procedures to be used for evaluating the results obtained, on an annual basis.

3. Changes to the objectives and actions included in the annual or multiannual sectoral programme shall be notified in advance to the European Commission. In the event that the Commission objects, the Joint Committee may be informed and asked to take a position on the intended change with a view to approval by the Parties, where appropriate by exchange of letters.

4. Each year, the two Parties shall carry out an evaluation of the progress made in implementing the multiannual sectoral programme, based on a written report provided by the São Tomé and Príncipe authorities. Where the evaluation indicates that the achievement of the objectives is not in line with the programming or if implementation is deemed insufficient by the Joint Committee, the payment of the financial contribution may be reviewed or suspended.

5. Payment of the financial contribution shall resume, following consultation and agreement between the two Parties, as soon as the progress made with regard to implementation is deemed satisfactory by the Joint Committee, where appropriate by exchange of letters. Nevertheless, the specific financial contribution provided for in Article 3(2)(b) shall not be paid out beyond a period of six (6) months after the Protocol expires.

Article 5

Scientific and technical cooperation to ensure responsible fishing

1. During the period covered by this Protocol, the European Union and São Tomé and Príncipe shall undertake to cooperate in order to monitor the state of fisheries resources in São Tomé and Príncipe's fishing zone.

2. With regard to the region of Central Africa, the two Parties shall undertake to promote cooperation as regards responsible fishing.

3. The two Parties shall undertake to comply with all recommendations and resolutions of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

4. In accordance with Article 4 of the Fisheries Partnership Agreement, on the basis of the recommendations and resolutions adopted by ICCAT, and in the light of the best available scientific advice, the Parties shall consult each other, within the Joint Committee provided for in Article 9 of the Fisheries Partnership Agreement, on possible measures aimed at the sustainable management of the fish species covered by this Protocol and affecting the activities of European Union vessels.

5. With a view to the proper management and conservation of sharks, the Parties shall agree to closely monitor catches of these species by exchanging catch data as provided for in Chapter III of the Annex. Where appropriate, the Joint Committee shall adopt further management measures setting a more adequate framework for the longliner fleet's activities.

6. The two Parties shall work together to strengthen the mechanisms for control, inspection and the combating of illegal, unreported and unregulated fishing in São Tomé and Príncipe.

Article 6
Review of fishing opportunities and technical measures

1. The fishing opportunities provided for in Article 1 may be adjusted by the Joint Committee insofar as the adjustment is consistent with the sustainable management of the fish species covered by this Protocol.

2. In such a scenario, the financial contribution referred to in Article 3(2)(a) shall be adjusted on a pro rata basis according to the length of time, and the changes shall be entered in this Protocol and its Annexes.

3. The Joint Committee may examine and, where necessary, adapt or modify, by mutual agreement, the provisions governing fishing activities and technical measures for implementing this Protocol.

Article 7
New fishing opportunities

1. As regards the operation of fisheries not covered by this Protocol, the authorities of São Tomé and Príncipe may call on the European Union to consider the possibility of such fisheries. In the absence of sufficient data on the status of stocks, the Parties shall agree on the conditions for undertaking an exploratory initiative, taking account of the best scientific advice provided to scientific experts representing both Parties.

2. Depending on these results, and if the European Union expresses an interest in these fisheries, the two Parties shall consult each other in the Joint Committee before any authorisation is granted by the São Tomé and Príncipe authorities. Where appropriate, the Parties shall agree on the conditions applicable to these new fishing opportunities and, if necessary, make amendments to this Protocol and its Annex.

Article 8

Landing incentives and promoting cooperation between economic operators

1. The Parties shall cooperate with a view to improving the options for landing catches at ports in São Tomé and Príncipe.

2. São Tomé and Príncipe shall endeavour to establish a strategy and incentives in order to encourage landings. As part of this strategy, the European Union fleet shall endeavour to land a portion of its catches, particularly by-catches.

3. The Parties shall endeavour to create conditions favourable to the promotion of technical, economic and commercial relations between enterprises and promote a favourable environment for the development of trade and investment.

Article 9

Suspension of the Protocol's implementation

1. The implementation of this Protocol may be suspended at the instigation of one of the two Parties if one or more of the following conditions apply:

   (a) unusual circumstances, as defined in Article 2(h) of the Fisheries Partnership Agreement, preventing fishing activities in São Tomé and Príncipe's fishing zone;

   (b) significant changes in the formulation or implementation of the fisheries policy of either one of the Parties affecting the provisions of this Protocol;

   (c) where one of the two Parties notes that there has been a violation of the essential elements regarding human rights provided for in Article 9 of the Cotonou Agreement, following the procedure provided for in Articles 8 and 96 of that Agreement;

   (d) non-payment by the European Union of the financial contribution provided for in Article 3(2)(a), for reasons other than those provided for in this Article;

   (e) a major and unresolved dispute between the two Parties on the application or interpretation of this Protocol.

2. Suspension of the Protocol's application shall require the interested Party to notify its intention in writing at least three (3) months before the date on which suspension is due to take effect.

3. In the event of suspension, the Parties shall continue to consult with a view to finding an amicable settlement to their dispute. Where a 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 10

Applicable legislation

1. The activities of European Union fishing vessels operating in São Tomé and Príncipe waters shall be governed by the relevant legislation in São Tomé and Príncipe, unless otherwise provided for in the Fisheries Partnership Agreement or this Protocol and its Annex and Appendices.

2. The São Tomé and Príncipe authorities shall inform the European Union of any change or any new legislation relating to the fisheries sector. Changes shall be binding on European Union vessels within sixty (60) days of notification.

3. The European Commission shall inform the São Tomé and Príncipe authorities of any change or any new legislation relating to the fishing activities of the European Union distant-water fleet.

Article 11
Electronic exchange of information

1. São Tomé and Príncipe and the European Union shall undertake to render operational and maintain the IT systems required for the electronic exchange of all the information and documents relating to the implementation of the Agreement.
2. The electronic version of a document shall be considered equivalent to the paper version in every respect.
3. São Tomé and Príncipe and the European Union shall inform each other without delay of any malfunction of an IT system. The information and documents relating to the implementation of the Agreement shall then be automatically transmitted by an alternative means of communication.

Article 12
Confidentiality of data

1. São Tomé and Príncipe and the European Union shall undertake to ensure that all nominative data relating to European Union vessels and their fishing activities obtained within the framework of the Agreement will, at all times, be processed in accordance with the principles of confidentiality and data protection.
2. The Parties shall ensure that only aggregate data on fishing activities in São Tomé and Príncipe waters are made publicly available, in line with the relevant ICCAT provisions.
3. Data which may be considered confidential shall be used by the competent authorities exclusively for the purposes of implementing the Agreement and for fisheries management, control and monitoring.
4. As regards personal data transmitted by the Union, appropriate safeguards and legal remedies may be established by the Joint Committee in accordance with the General Data Protection Regulation (Regulation (EU) 2016/679 of 27 April 2016).

Article 13
Duration

This Protocol shall apply for a period of five (5) years from the date of provisional application laid down in Article 15, unless notice of termination is given under Article 14.

Article 14
Termination

1. In the event of termination of this Protocol, the Party concerned shall notify the other Party in writing of its intention to terminate it at least six months before the date on which such termination would take effect.
2. Dispatch of the notification, as referred to in paragraph 1, shall open consultations between the Parties.

Article 15
Provisional application

This Protocol shall apply provisionally from the date of signature.

Article 16
Entry into force

This Protocol shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for that purpose.

ANNEX

Conditions governing fishing activities by European Union vessels in São Tomé and Príncipe's fishing zone

CHAPTER I

GENERAL PROVISIONS

1. DESIGNATION OF THE COMPETENT AUTHORITY

For the purposes of this Annex and unless otherwise specified hereinafter, any reference to the European Union (EU) or to São Tomé and Príncipe as a competent authority shall mean:

– in the case of the EU: the European Commission, where applicable via the EU delegation with responsibility for São Tomé and Príncipe;

– in the case of São Tomé and Príncipe: the fisheries directorate within the ministry responsible for fisheries.

2. FISHING ZONE

European Union vessels operating under this Protocol may carry out their activities in the Exclusive Economic Zone (EEZ) of São Tomé and Príncipe, with the exception of areas reserved for small-scale and semi-industrial fishing.

The coordinates of the EEZ shall be those notified to the United Nations on 7 May 1998.

Any change to the fishing zone shall be notified by São Tomé and Príncipe to the European Union without delay.

3. ZONES CLOSED TO SHIPPING AND FISHING

Without exception, all fishing activity in the zone intended for joint development by São Tomé and Príncipe and Nigeria shall be prohibited. The coordinates of this zone are set out in Appendix 1.

4. BANK ACCOUNT

Before the entry into force of the Protocol, São Tomé and Príncipe shall notify the EU of the details of the bank account(s) into which the financial sums payable by fishing vessels under the Agreement shall be paid. The costs of the bank transfers shall be borne by the vessel owners.

5. CONTACT POINTS

The two Parties shall inform each other of their respective contact points set up to enable exchanges of information on the implementation of the Protocol, in particular on issues linked to the exchange of aggregate catch and fishing effort data, procedures relating to fishing authorisations and the implementation of sectoral support.

6. WORKING LANGUAGES

The Parties shall agree that, as far as possible, the working languages used in meetings aimed at implementing this Protocol will be Portuguese and French.

CHAPTER II

FISHING AUTHORISATIONS

For the purposes of applying the provisions of this Annex, the term 'fishing authorisation' shall be equivalent to the term 'fishing licence' in São Tomé and Príncipe legislation.

Section 1: Applicable procedures

1. CONDITIONS FOR OBTAINING A FISHING AUTHORISATION

Only eligible vessels may obtain an authorisation to fish in São Tomé and Príncipe's fishing zone.

In order for a vessel to be eligible, the owner, the master and the vessel itself shall not be banned from fishing in São Tomé and Príncipe. They shall be in order vis-à-vis the São Tomé and Príncipe authorities insofar as they shall have fulfilled all prior obligations arising from their fishing activities in São Tomé and Príncipe under fisheries agreements concluded with the European Union. Furthermore, they shall comply with the provisions of Regulation (EU) 2017/2403 on the sustainable management of external fishing fleets.

2. APPLICATION FOR A FISHING AUTHORISATION

The competent European Union authorities shall submit, by electronic means, an application for each vessel wishing to fish under the Fisheries Partnership Agreement to the ministry responsible for fisheries in São Tomé and Príncipe, with a copy to the European Union delegation with responsibility for São Tomé and Príncipe, at least fifteen (15) working days before the start of the period of validity requested.

Applications shall be submitted to the ministry responsible for fisheries on a form drawn up in accordance with the specimen in Appendix 2.

All fishing authorisation applications shall be accompanied by the following documents:

– proof of payment of the flat-rate advance and the flat-rate contributions for observers for the period of validity of the authorisation;

– a recent colour photograph of the vessel, showing a lateral view;

– a copy of the registration certificate of the vessel;

– where appropriate, any other document required under the national provisions applicable to the type of vessel, as notified by São Tomé and Príncipe in the Joint Committee.

The payment of the annual flat-rate fee shall be made to the Public Treasury account used for the contribution referred to in Article 3(2)(a).

The fees shall include all national and local taxes, with the exception of port taxes and service charges.

The targeted species shall be indicated clearly in each application for a fishing authorisation.

The application for a fishing authorisation may include a notification of the intention to partially remove shark fins on board the vessel and to perform other operations on board, such as gutting.

3. ISSUE OF THE FISHING AUTHORISATION

Fishing authorisations shall be issued by the ministry responsible for fisheries in São Tomé and Príncipe within fifteen (15) working days of receipt of all the documents referred to in point 2 above.

The originals shall be submitted to the Union via the European Union delegation with responsibility for São Tomé and Príncipe.

The authorisation shall specify the species or categories that may be fished (tunas, swordfish and authorised sharks).

In order not to delay the opportunity for fishing in the zone, a copy of the fishing authorisation shall be sent to the vessel owner electronically. This copy may be used for a maximum period of sixty (60) days after the date on which the authorisation was issued. During this period, the copy shall be considered equivalent to the original.

4. EXCEPTIONAL REPLACEMENT OF FISHING AUTHORISATIONS

A fishing authorisation shall be issued for a given vessel and shall not be transferable. However, at the request of the European Union and where force majeure is proven, the fishing authorisation of a vessel may be withdrawn and a new fishing authorisation issued for the remainder of the period of validity, for another vessel of the same category, in accordance with procedures to be determined.

The vessel owner shall submit the original fishing authorisation to the São Tomé and Príncipe ministry responsible for fisheries. The authorisation for the replacement vessel shall take effect on that date. São Tomé and Príncipe shall notify the European Union of the transfer of the fishing authorisation and the date it will take effect.

5. KEEPING THE FISHING AUTHORISATION ON BOARD

The fishing authorisation shall be kept on board at all times, without prejudice to the provisions of point 3 of this Section.

6. SUPPORT VESSELS

At the request of the European Union, and following an examination by the São Tomé and Príncipe authorities, São Tomé and Príncipe shall authorise European Union fishing vessels holding a fishing authorisation to be assisted by support vessels.

The support vessels shall not be equipped for fishing. This support shall not include refuelling or the transhipment of catches.

Support vessels shall be subject to the same procedure as regards the sending of applications for fishing authorisations set out in this Chapter, to the extent applicable. São Tomé and Príncipe shall draw up a list of authorised support vessels and send it to the European Union immediately.

These vessels shall be required to pay an annual fee of EUR 3 500, payable to the Fisheries Development Fund referred to in Article 3 of the Protocol.

Section 2: Fees and advance payments

1. Fishing authorisations shall be valid for one year.

2. The fee payable for tuna seiners and surface longliners, in euros per tonne caught in São Tomé and Príncipe's fishing zone, is set at EUR 70 for the entire duration of the Protocol.

3. Fishing authorisations shall be issued after payment of the following annual flat-rate fees:

   (a) in the case of tuna seiners: EUR 9 100 per vessel, equivalent to the fees due for 130 tonnes;

   (b) in the case of surface longliners: EUR 3 255 per vessel, equivalent to the fees due for 46.5 tonnes.

The fees shall be payable to the Public Treasury account used for the payment of the contribution for access referred to in Article 3(2)(a).

4. For each vessel, the Union shall draw up, on the basis of its catch reporting, a statement of catches and a statement of the fees owed by the vessel in respect of its annual season for the previous calendar year. The Union shall send these final statements to the São Tomé and Príncipe authorities, and to the vessel owner via the Member States, before 30 June of the current year. São Tomé and Príncipe may challenge these final statements within thirty (30) days of receipt, on the basis of supporting evidence. In the event of disagreement, the Parties shall consult each other, where appropriate in the Joint Committee. If São Tomé and Príncipe does not object within the period of thirty (30) days referred to above, the final statements shall be considered adopted.

5. If the final statement exceeds the anticipated flat-rate fee paid to obtain the fishing authorisation, the vessel owner shall pay the outstanding balance to São Tomé and Príncipe within forty-five (45) days unless the vessel owner contests the statement. Outstanding balances shall be paid into the Development Fund account. However, if the final statement is less than the anticipated flat-rate fee, the remaining amount shall not be reclaimed by the vessel owner.

CHAPTER III

CATCH MONITORING AND REPORTING

Section 1: Electronic fishing logbooks

1. The master of a European Union vessel carrying out fishing activities under the Agreement shall keep an electronic fishing logbook integrated into an electronic recording and reporting system (ERS).

2. A vessel not equipped with an ERS shall not be authorised to enter São Tomé and Príncipe's fishing zone in order to engage in fishing activities.

3. The master shall be responsible for the accuracy of the data recorded in the electronic fishing logbook. The fishing logbook shall comply with the relevant ICCAT resolutions and recommendations.

4. Every day, the master shall record the estimated quantities of each species caught and kept on board, or thrown back into the sea, for each fishing operation. The recording of the estimated quantities of a species caught or discarded shall be made regardless of the weight involved.

5. If the vessel is present in the fishing zone but does not carry out any fishing, the position of the vessel at noon shall be recorded.

6. The fishing logbook data shall be transmitted automatically and on a daily basis to the Fisheries Monitoring Centre (FMC) of the flag State. The transmissions shall include at least the following:

(a) the vessel identification numbers and the name of the fishing vessel;

(b) the FAO 3-alpha code of each species;

(c) the relevant geographical area in which the catches were taken;

(d) the date and, where appropriate, the time of the catches;

(e) the date and time of departure from and arrival at the port, and the duration of the fishing trip;

(f) the type of gear, technical specifications and dimensions;

(g) the estimated quantities of each species kept on board, in kilograms live weight or, where appropriate, the number of individual fish;

(h) the estimated quantities of each species discarded, in kilograms live weight or, where appropriate, the number of individual fish.

7. The flag State shall ensure that the data are received and recorded in a computer database enabling the data to be stored securely for at least 36 months.

8. The flag State and São Tomé and Príncipe shall ensure that they have the necessary IT equipment and software to automatically transmit ERS data. ERS data shall be transmitted using the electronic means of communication operated by the European Commission for exchanging fisheries data in a standardised form. Changes to standards shall be implemented within six (6) months.

9. The flag State's FMC shall ensure that fishing logbooks are automatically made available by ERS to São Tomé and Príncipe's FMC on a daily basis for the period during which the vessel is present in the fishing zone, even in the event of a zero catch.

10. The arrangements for reporting catches by ERS and the procedures in the event of malfunction are set out in Appendix 4.

11. The São Tomé and Príncipe authorities shall handle data on the fishing activities of individual vessels in a confidential and secure manner.

Section 2 - Aggregate catch data

1. On a quarterly basis, the flag State shall input the quantities of each vessel's catches and discards, aggregated over one month, in the database run by the European Commission. In the case of species subject to a total allowable catch in accordance with the Protocol or ICCAT recommendations, the quantities shall be provided on a monthly basis for the previous month.

2. The flag State shall verify the data through cross-checks with landing, sales, inspection or observation data and any relevant information of which the authorities are aware. Updates to the database required as a result of these verifications shall be carried out as quickly as possible. The verifications shall use the geographical coordinates of the fishing zone as established in accordance with this Protocol.

3. The European Union shall provide the São Tomé and Príncipe authorities, before the end of each quarter, with aggregated data for the previous quarters of the current year, indicating the quantities of catches per vessel, per month of catch, and per species, extracted from the database. These data shall be provisional and expandable.

4. The partner country shall analyse them and report any major inconsistencies with the electronic fishing logbook data provided by ERS. The flag States shall conduct investigations and update data as necessary.

CHAPTER IV

MONITORING, CONTROL AND SURVEILLANCE

Section 1: CONTROL AND INSPECTION

European Union fishing vessels shall comply with the measures and recommendations adopted by ICCAT with regard to fishing gear and the related technical specifications and all other technical measures applicable to their fishing activities and catches.

1. ENTERING AND LEAVING THE FISHING ZONE

European Union vessels operating in São Tomé and Príncipe waters under this Protocol shall notify the competent São Tomé and Príncipe authorities, at least three (3) hours in advance, of their intention to enter or leave the São Tomé and Príncipe EEZ.

When notifying entry into/exit from the São Tomé and Príncipe EEZ, vessels shall, at the same time, also communicate their position and the catches already held on board, identified by their FAO 3-alpha code, expressed in kilograms of live weight or, where appropriate, the number of individual fish.

These communications shall be made by ERS or alternatively by email, to the address communicated by the São Tomé and Príncipe authorities.

A vessel found to be fishing without having notified its intention to enter São Tomé and Príncipe waters shall be regarded as a vessel without a fishing authorisation and shall be subject to the consequences provided for by national legislation.

2. INSPECTION PROCEDURES

Inspections at sea, in port or off port in São Tomé and Príncipe's fishing zone on European Union vessels holding a fishing authorisation shall be carried out by inspectors from São Tomé and Príncipe who are clearly identified as being assigned to carry out fishing checks, using vessels at the service of the São Tomé and Príncipe authorities.

Before boarding, the inspectors from São Tomé and Príncipe shall inform the European Union vessel of their decision to carry out an inspection. The inspection shall be carried out by a maximum of two inspectors, who must provide proof of their identity and official position as an inspector before carrying out the inspection.

The inspectors from São Tomé and Príncipe shall only stay on board the European Union vessel for the time necessary to carry out tasks linked to the inspection. They shall carry out the inspection in a way which minimises the impact on the vessel, its fishing activity and cargo.

Images (photos or videos) made during inspections shall be intended for the authorities responsible for fisheries control and surveillance. They shall not be made public unless the

national legislation provides otherwise.

The master of the European Union vessel shall allow the inspectors from São Tomé and Príncipe to come on board and carry out their work.

At the end of each inspection, the inspectors from São Tomé and Príncipe shall draw up an inspection report. The master of the European Union vessel shall have the right to include their comments in the inspection report. The inspection report shall be signed by the inspector drawing up the report and the master of the European Union vessel.

The signing of the inspection report by the master shall be without prejudice to the vessel owner's right of defence during any infringement procedure. The master of the vessel shall cooperate while the inspection procedure is being carried out. If the master refuses to sign the document, they shall specify the reasons for doing so in writing, and the inspector shall write 'Refused to sign' on it. The inspectors from São Tomé and Príncipe shall give a copy of the inspection report to the master of the European Union vessel before leaving the vessel. The São Tomé and Príncipe authorities shall inform the European Union of inspections carried out within twenty-four (24) hours of their completion and of any infringements found, and send it the inspection report. If applicable, a copy of the resulting indictment shall be sent to the European Union within a maximum of seven (7) days after the inspector's return to port.

3. AUTHORISED OPERATIONS ON BOARD

Fishing authorisations issued by São Tomé and Príncipe shall indicate which operations are authorised on board, such as gutting and the partial removal of shark fins.

4. TRANSHIPMENT AND LANDINGS

All European Union vessels operating in São Tomé and Príncipe waters under this Protocol which carry out transhipments in São Tomé and Príncipe waters shall do so off the ports of Fernão Dias, Neves and Ana Chaves.

If the owners of these vessels or their agents wish to carry out a transhipment or landing, they shall notify the competent São Tomé and Príncipe authorities, at least forty-eight (48) hours in advance, of the following:

(a) the names of the fishing vessels involved in the transhipment or landing;

(b) the name of the cargo vessel;

(c) the tonnage by species to be transhipped or landed;

(d) the day of transhipment or landing;

(e) the destination of the transhipped or landed catches.

Notification to São Tomé and Príncipe may be made by ERS or email.

Transhipment at sea shall be prohibited.

Masters of vessels shall submit their catch declarations to the competent São Tomé and Príncipe authorities and state whether they intend to continue fishing or to leave São Tomé and Príncipe waters.

Any transhipment or landing of catches not covered by the above provisions shall be prohibited in São Tomé and Príncipe waters. Any person infringing this provision shall be liable to the penalties provided for by the applicable São Tomé and Príncipe regulations.

Section 2: Satellite-based vessel monitoring system (VMS)

Any European Union vessel authorised under this Protocol shall be equipped with a satellite-based vessel monitoring system (VMS).

It shall be forbidden to move, disconnect, destroy, damage or render inoperative the continuous tracking system using satellite communications placed on board the vessel for the purposes of data transmission or to intentionally alter, divert or falsify data transmitted or recorded by such a system.

European Union vessels shall communicate their position automatically and continuously, at least every hour in the case of seiners and at least every two (2) hours in the case of all other vessels, to the FMC of their flag State. This frequency may be increased as part of investigative measures into a vessel's activities.

The FMC of the flag State shall ensure that VMS positions are automatically made available for the period during which the vessel is present in the fishing zone.

Each position message shall contain:

(a) the vessel identification;

(b) the most recent geographical position of the vessel (longitude, latitude), with a margin of error of less than 500 metres and with a confidence interval of 99%;

(c) the date and time the position is recorded;

(d) the vessel's speed and course.

The arrangements for notifying vessel positions by VMS and the procedures in the event of malfunction are set out in Appendix 5.

The FMCs shall communicate with each other in the context of monitoring vessel activity.

CHAPTER V

SIGNING-ON OF SEAMEN

1. Number of seamen to be signed on:

When carrying out their fishing activity in São Tomé and Príncipe waters, European Union vessels shall be required to sign on seamen from São Tomé and Príncipe, in accordance with the following conditions and limits:

(a) in the case of the tuna seiner fleet, a total of six (6) seamen for the entire fleet for the first year of application of the Protocol, a total of eight (8) seamen for the second year of application of the Protocol, and a total of ten (10) seamen per year for the last three years of application of the Protocol;

(b) in the case of the surface longliner fleet, a total of two (2) seamen per year for the entire fleet.

2. This signing-on obligation shall be contingent on the São Tomé and Príncipe authorities sending a list of able and qualified seamen to the European Union before the application of the Protocol and then in January each year. Vessel owners shall recruit seamen from those appearing on this list.

3. The qualifications required by seamen from São Tomé and Príncipe are set out in Appendix 6.

4. The vessel owner or their agent shall inform the competent São Tomé and Príncipe authority of the names of the seamen signed on the vessel concerned, mentioning their position in the crew.

5. The International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on European Union vessels. In particular, this relates to freedom of association, effective recognition of the right to collective bargaining, and elimination of discrimination in respect of employment and occupation.

6. The employment contracts of seamen from São Tomé and Príncipe, a copy of which must be given to the Ministry of Labour, the Ministry of Fisheries and the signatories of the contracts, shall be drawn up between the vessel owners, or their agents, and the seamen and/or their trade unions or representatives. These contracts shall guarantee the seamen the social security cover applicable to them, in accordance with the applicable legislation, including life assurance and sickness and accident insurance.

7. The wages of the seamen shall be paid by the vessel owners. They shall be set by mutual agreement between the vessel owners or their agents and the seamen and/or their trade unions or representatives. However, the wages of the seamen shall not be lower than those payable to crews from their respective countries and shall, under no circumstances, be below ILO standards.

8. All seamen recruited by European Union vessels shall report to the master of the designated vessel on the day before their proposed signing-on date. If a seaman fails to appear at the agreed date and time of signing-on, or a seaman does not have the required qualifications, the vessel owner shall be automatically absolved of their obligation to sign on the seaman.

9. If, for exceptional reasons justified by vessel owners, European Union vessels are not able to sign on the number of seamen from São Tomé and Príncipe provided for in point 1, they shall pay a flat-rate amount of EUR 20 per seaman not signed on and per day the vessel is present in São Tomé and Príncipe's fishing zone. The Joint Committee shall regularly assess the signing-on of seamen from São Tomé and Príncipe.

CHAPTER VI

OBSERVERS

1. OBSERVATION OF FISHING ACTIVITIES

Pending the implementation of a system of regional observers, vessels authorised to fish in São Tomé and Príncipe's fishing zone under the Agreement shall take on board, instead of regional observers, observers designated by São Tomé and Príncipe, in accordance with the rules set out in this Chapter.

2. DESIGNATED VESSELS AND OBSERVERS

European Union vessels operating in São Tomé and Príncipe waters under this Protocol shall take on board observers designated by the São Tomé and Príncipe Ministry of Fisheries, on the terms set out below:

(a) At the request of the competent São Tomé and Príncipe authorities, European Union vessels shall take on board an observer designated by the former to check catches made in São Tomé and Príncipe waters.

(b) The competent São Tomé and Príncipe authorities shall draw up a list of the vessels designated to take an observer on board and a list of the observers designated to be taken on board. These lists shall be kept up to date. They shall be forwarded to the European Commission as soon as they have been drawn up and every three (3) months thereafter, as they may have been updated.

(c) The competent São Tomé and Príncipe authorities shall inform the European Union and the vessel owners concerned of the name of the observer designated to be taken on board the vessel, preferably by email, at the time the fishing authorisation is issued or, at the latest, fifteen (15) days before the observer's planned embarkation date.

(d) The time spent on board by the observer shall be one fishing trip. However, at the express request of the competent São Tomé and Príncipe authorities, this embarkation may be spread over several trips depending on the average duration of the trips planned for a particular vessel. This request shall be made by the competent authority when notifying the name of the observer designated to board the vessel in question.

3. BOARDING AND DISEMBARKING CONDITIONS

(a) The conditions under which the observer is taken on board shall be agreed between the vessel owner or their agent and the competent authority.

(b) Observers shall embark and disembark at a port chosen by the vessel owner. Embarkation shall take place at the beginning of the first trip in São Tomé and Príncipe waters after notification of the list of designated vessels.

(c) Within two (2) weeks and giving ten (10) days' notice, the vessel owners concerned shall make known at which ports in the subregion and on what dates they intend to take the observers on board and put them ashore.

(d) Where observers are taken on board in a country other than São Tomé and Príncipe, their travel costs shall be borne by the vessel owner. Should a vessel with an observer on board leave São Tomé and Príncipe's fishing zone, all measures shall be taken to ensure the observer's return to São Tomé and Príncipe as soon as possible at the vessel owner's expense.

(e) If the observer is not present at the time and place agreed or within the following twelve (12) hours, the vessel owner shall be automatically absolved of their obligation to take the observer on board.

(f) The master shall do everything in their power to ensure the physical safety and welfare of the observer during the performance of their duties.

(g) The observer shall be offered every facility needed to carry out their duties. The master shall give the observer access to the means of communication needed to discharge their duties, to documents directly concerned with the vessel's fishing activities, including, in particular, the fishing logbook and the navigation log, and to any part of the vessel as required to allow the observer to accomplish their tasks.

(h) The vessel owner shall bear the cost of providing board and accommodation for observers in the same conditions as for officers, within the confines of the practical possibilities offered by the vessel.

(i) The salary and social contributions of the observer shall be borne by São Tomé and Príncipe.

4. FLAT-RATE FINANCIAL CONTRIBUTION

In order to contribute to the implementation costs related to the placement of observers, the vessel owner shall pay, at the time of paying the flat-rate advance, an amount of EUR 250 per year and per vessel, payable to the account used for flat-rate advances.

5. TASKS OF THE OBSERVER

Observers shall be treated on board as officers. When vessels are operating in São Tomé and Príncipe waters, observers shall carry out the following tasks:

(a) observe the fishing activities of the vessels;

(b) verify the position of vessels engaged in fishing operations;

(c) record the fishing gear used;

(d) verify the catch data for São Tomé and Príncipe waters recorded in the fishing logbook;

(e) verify the percentages of by-catches and estimate the quantity of discards of marketable fish species;

(f) report fishing data, including the quantity of catches and by-catches on board, to their competent authority by any appropriate means.

6. OBLIGATIONS OF THE OBSERVER

While on board, the observer shall:

(a) take all appropriate steps to ensure that the manner of their boarding and their presence on board neither interrupt nor hamper fishing operations;

(b) respect the material and equipment on board and the confidentiality of all documents belonging to the vessel.

(c) At the end of the observation period and before leaving the vessel, the observer shall draw up an activity report to be transmitted to the competent São Tomé and Príncipe authorities, with a copy to the European Commission. The observer shall sign it in the presence of the master, who may add or have added to it any observations considered relevant, followed by the master's signature. A copy of the report shall be handed to the master when the observer is put ashore.

CHAPTER VII

INFRINGEMENTS

1. HANDLING OF INFRINGEMENTS

Any infringement committed by a European Union vessel holding a fishing authorisation in accordance with the provisions of this Annex shall be the subject of an indictment report to be sent to the European Union and the flag State as quickly as possible.

2. DETENTION OF THE VESSEL/DIVERSION - INFORMATION MEETING

(a) If the São Tomé and Príncipe legislation in force so provides with regard to the reported infringement, any European Union vessel having committed an infringement may be forced to cease its fishing activity and, if the vessel is at sea, to return to a São Tomé and Príncipe port.

(b) São Tomé and Príncipe shall notify the European Union within twenty-four (24) hours of any detention of a European Union vessel holding a fishing authorisation. That notification shall be accompanied by documentary evidence of the reported infringement.

(c) Before taking any measures against the vessel, the master, the crew or the cargo, with the exception of measures aimed at protecting evidence, São Tomé and Príncipe shall hold, at the request of the European Union, within one (1) working day of notification of the detention of the vessel, an information meeting to clarify the facts which led to the vessel being detained and to explain what further action may be taken. A representative of the vessel's flag State may attend this information meeting.

3. PENALTIES FOR INFRINGEMENTS - COMPROMISE PROCEDURE

(a) The penalty for the infringement shall be set by São Tomé and Príncipe pursuant to the relevant provisions of national law.

(b) Where settling the infringement involves legal proceedings, provided that the infringement does not involve a criminal act, a compromise procedure between São Tomé and Príncipe and the European Union shall take place before the proceedings are launched to determine the terms and level of the penalty. Representatives of the vessel's flag State and the European Union may participate in this compromise procedure. The compromise procedure shall finish at the latest three (3) days after notice is given of the vessel's detention.

4. LEGAL PROCEEDINGS - BANK SECURITY

If the compromise procedure fails and the infringement is brought before the competent court, the owner of the vessel that committed the infringement shall deposit a bank security at a bank designated by São Tomé and Príncipe, the amount of which, as set by São Tomé and Príncipe, covers the costs linked to the detention of the vessel, the estimated fine and any compensation. It shall not be possible to recover the bank security until the legal proceedings have been concluded.

The bank security shall be released and returned to the vessel owner immediately after judgment has been given:

(a) in full, if no penalty has been imposed;

(b) for the amount of the remaining balance, if the penalty is a fine which is lower than the amount of the bank security.

São Tomé and Príncipe shall inform the European Union of the outcome of the legal proceedings within seven (7) days of the judgement being given.

5. RELEASE OF THE VESSEL AND THE CREW

The vessel and its crew shall be authorised to leave the port once the penalty has been paid in a compromise procedure, or once the bank security has been deposited.

APPENDICES

Appendix 1	Coordinates of the Nigeria-São Tomé and Príncipe Joint Development Zone
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Appendix 1
Coordinates of the Nigeria-São Tomé and Príncipe Joint Development Zone

Latitude (degrees, minutes and seconds)	Longitude
03 02 22 N	07 07 31 E
02 50 00 N	07 25 52 E
02 42 38 N	07 36 25 E
02 20 59 N	06 52 45 E
01 40 12 N	05 57 54 E
01 09 17 N	04 51 38 E
01 13 15 N	04 41 27 E
01 21 29 N	04 24 14 E
01 31 39 N	04 06 55 E
01 42 50 N	03 50 23 E
01 55 18 N	03 34 33 E
01 58 53 N	03 53 40 E
02 02 59 N	04 15 11 E
02 05 10 N	04 24 56 E
02 10 44 N	04 47 58 E
02 15 53 N	05 06 03 E
02 19 30 N	05 17 11 E
02 22 49 N	05 26 57 E
02 26 21 N	05 36 20 E
02 30 08 N	05 45 22 E
02 33 37 N	05 52 58 E
02 36 38 N	05 59 00 E
02 45 18 N	06 15 57 E
02 50 18 N	06 26 41 E
02 51 29 N	06 29 27 E
02 52 23 N	06 31 46 E
02 54 46 N	06 38 07 E
03 00 24 N	06 56 58 E
03 01 19 N	07 01 07 E
03 01 27 N	07 01 46 E
03 01 44 N	07 03 07 E
03 02 22 N	07 07 31 E

Appendix 2
Application form

APPLICATION FOR AUTHORISATION FOR A FISHING VESSEL OR SUPPORT VESSEL
SÃO TOMÉ AND PRÍNCIPE - EUROPEAN UNION FISHERIES AGREEMENT

- APPLICANT

1. Name of vessel owner:…… Nationality:
2. Name of vessel owner's association or agent:

   ……..
3. Address of vessel owner's association or agent:

   ……..
4. Tel.:
5. Email address:
6. Name of master:…….. Nationality:
7. Name and address of consignee in São Tomé and Príncipe (if any):

   ……..

- VESSEL IDENTIFICATION

8. Vessel name:…….
9. Flag State:…….
10. Previous flag (if any): ……..
11. Date on which current flag was acquired:……..
12. External registration number:……
13. Port of registry:…….. MMSI: …….
14. IMO number:…… ICCAT number: …….
15. Year and place of construction:…….
16. Radio call sign:…… Call frequency:…….
17. Hull construction material: □ steel □ wood □ polyester □ other

- TECHNICAL CHARACTERISTICS AND EQUIPMENT

18. Overall length:…… Width: …….
19. Tonnage (expressed in GT): …….
20. Power of main engine in kW: Make:…….. Type:…….
21. Type of vessel:…… Fishing category: ……
22. Fishing gear:……
23. Fishing zones:…….
24. Target species: □ tunas □ swordfish and billfish □ authorised sharks
25. By-catch species: □ tunas □ swordfish and billfish □ authorised sharks

26. Envisaged processing on board: □ gutting □ partial removal of fins

27. □ other (specify):…….

28. Crew complement:……..

29. Method of preservation on board: □ fresh □ chilling □ mixed □ freezing

30. Freezing capacity in tonnes/24 hours……

31. Hold capacity:…… Number:……

Done at ..... on ..... .

Signature of applicant

Appendix 3
Datasheet
Tuna freezer seiners and surface longliners

1. Prohibited species

In accordance with the Convention on Migratory Species and ICCAT resolutions, fishing for the giant manta ray (*Manta birostris*), the basking shark (*Cetorhinus maximus*), the white shark (*Carcharodon carcharias*), the bigeye thresher shark (*Alopias superciliosus*), hammerhead sharks in the Sphyrnidae family (with the exception of the bonnethead shark (*Sphyrna tiburo*)), the oceanic whitetip shark (*Carcharhinus longimanus*) and the silky shark (*Carcharhinus falciformis*) is prohibited. Fishing for the whale shark (*Rhincondon typus*) is also prohibited.

In accordance with EU law (Council Regulation (EC) No 1185/2003 of 26 June 2003), it is prohibited to remove shark fins on board vessels, and to keep on board, tranship or land shark fins. Without prejudice to the above, shark fins may be partially sliced through and folded against the carcass in order to facilitate on-board storage; however, they must not be removed from the carcass before landing.

In line with ICCAT recommendations, the Parties shall endeavour to reduce the inadvertent impact of fishing activities on turtles and seabirds by implementing measures to maximise the chance of survival of individual turtles and seabirds caught by accident.

TUNA SEINERS

(1) Authorised gear: seines
(2) Target species: yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*)
(3) By-catches: compliance with ICCAT and FAO recommendations.

SURFACE LONGLINERS

(1) Authorised gear: surface longlines
(2) Target species: swordfish (*Xiphias gladius*), blue shark (*Prionace glauca*), yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*)
(3) By-catches: compliance with ICCAT and FAO recommendations.

2. Vessel owners' fees – number of vessels:

Additional fee per tonne caught	EUR 70 per tonne for the entire duration of the Protocol
Annual flat-rate fee	For tuna seiners: EUR 9 100 For surface longliners: EUR 3 255
Flat-rate fee for observers	EUR 250 per vessel per year
Fee per support vessel	EUR 3 500 per vessel per year
Number of vessels authorised to fish	28 tuna seiners 6 surface longliners

Appendix 4
Implementation of the electronic system for recording and reporting fishing activities (ERS)

1. ERS communications

(1) The flag State and São Tomé and Príncipe shall each designate an ERS correspondent who will act as the point of contact for matters concerning the implementation of these provisions. The flag State and São Tomé and Príncipe shall notify each other of the contact details of their ERS correspondents and, where appropriate, update that information without delay.

(2) ERS data shall be transmitted by the vessel to its flag State, which will make them automatically available to São Tomé and Príncipe.

(3) Data shall be in UN/CEFACT format and shall be transmitted via the FLUX network provided by the European Commission.

(4) Nevertheless, the Parties may agree on a transition period, during which the data are transmitted via the Data Exchange Highway (DEH) in EU-ERS (v 3.1) format.

(5) The flag State's FMC shall transmit instant messages from the vessel (COE, COX, PNO) automatically and without delay to São Tomé and Príncipe's FMC. Other types of messages shall also be automatically transmitted once a day from the effective date of the use of the UN/CEFACT format or, until then, made available without delay to São Tomé and Príncipe's FMC upon requests made automatically to the flag State's FMC via the European Commission's central node. As from the effective implementation of the new format, the latter delivery mode shall only concern specific requests for historical data.

(6) São Tomé and Príncipe's FMC shall confirm that it has received the instant ERS data sent to it, by means of a return message acknowledging receipt and confirming the validity of the message received. No acknowledgement of receipt shall be provided for data that São Tomé and Príncipe receives in response to a request it has submitted itself. São Tomé and Príncipe shall handle all ERS data confidentially.

2. Failure of the electronic transmission system on board the vessel or the communication system

(1) The FMCs of the flag State and São Tomé and Príncipe shall inform each other without delay of any event likely to affect the transmission of the ERS data of one or more vessels.

(2) If São Tomé and Príncipe's FMC does not receive the data to be transmitted by a vessel, it shall notify this to the flag State's FMC without delay. The flag State's FMC shall promptly investigate the reasons for the non-receipt of ERS data and inform São Tomé and Príncipe's FMC of the outcome of those investigations.

(3) Where a failure occurs in the transmission between the vessel and the flag State's FMC, the flag State's FMC shall notify this without delay to the master or the operator of the vessel or, in their absence, to their agent. On receipt of this notification, the master of the vessel shall transmit the missing data to the competent authorities of the flag State by any appropriate means of telecommunication every day, no later than 00.00.

(4) In the event of a failure of the electronic transmission system installed on board the vessel, the master or the operator of the vessel shall ensure that the ERS is repaired or replaced within ten (10) days of the failure being detected. Once that deadline has

passed, the vessel shall no longer be authorised to fish in the fishing zone and shall leave or call at a São Tomé and Príncipe port within twenty-four (24) hours. The vessel shall not be authorised to leave that port or return to the fishing zone until the FMC of its flag State has established that the ERS system is functioning correctly again.

(5) If the non-receipt of ERS data by São Tomé and Príncipe is caused by the failure of the electronic systems under the supervision of the European Union or São Tomé and Príncipe, the Party in question shall take prompt action to resolve the problem rapidly. The other Party shall be notified once the problem has been resolved.

(6) Every 24 hours, the flag State's FMC shall send São Tomé and Príncipe's FMC all the ERS data received by the flag State since the last transmission, using any electronic means of communication available. The same procedure may be applied at the request of São Tomé and Príncipe in the event of maintenance operations lasting more than twenty-four (24) hours and affecting the systems under the supervision of the European Union. São Tomé and Príncipe shall notify its competent monitoring services in order to ensure that European Union vessels are not considered to be in breach of their obligation to transmit their ERS data. The flag State's FMC shall ensure that the missing data are entered into the electronic database it keeps in accordance with point 1 of Appendix 5.

3. Alternative means of communication

The email address of São Tomé and Príncipe's FMC to be used in the event of a failure in the ERS/VMS communications shall be notified before the Protocol enters into force.

It shall be used for:

– notifications of entry/exit and on-board catches on entry and exit;

– notifications of landing and transhipment and catches transhipped, landed or remaining on board;

– temporary, substitute ERS and VMS communications in the event of failures.

Appendix 5
VESSEL MONITORING SYSTEM (VMS)

1. Vessel position messages — VMS

– The first position recorded after entry into the São Tomé and Príncipe zone shall be identified by the code 'ENT'. All subsequent positions shall be identified by the code 'POS', with the exception of the first position recorded after departure from the São Tomé and Príncipe zone, which shall be identified by the code 'EXI'.

– The FMC of the flag State shall ensure the automatic processing and, if necessary, the electronic transmission of the position messages. The position messages shall be recorded in a secure manner and kept for a period of three (3) years.

2. Transmission by the vessel in the event of breakdown of the VMS system

– The master shall ensure at all times that the VMS of their vessel is fully operational and that the position messages are correctly transmitted to the flag State's FMC.

– In the event of breakdown, the VMS of the vessel shall be repaired or replaced within thirty (30) days. After that period, the vessel shall no longer be authorised to fish in the São Tomé and Príncipe zone.

– Vessels fishing in the São Tomé and Príncipe zone with a defective VMS shall communicate their position messages by email, radio or fax to the flag State's FMC at least every four hours, providing all the mandatory information.

3. Secure communication of position messages to São Tomé and Príncipe

– The FMC of the flag State shall automatically send the position messages of the vessels concerned to the FMC of São Tomé and Príncipe. The FMCs of the flag State and São Tomé and Príncipe shall exchange their contact email addresses and inform each other immediately of any change to these addresses.

– The transmission of position messages between the FMCs of the flag State and São Tomé and Príncipe shall be carried out electronically using a secure communication system.

– São Tomé and Príncipe's FMC shall inform the flag State's FMC and the Union of any interruption in the reception of consecutive position messages from a vessel holding a fishing authorisation, if the vessel concerned has not notified its exit from the zone.

4. Malfunction of the communication system

– São Tomé and Príncipe shall ensure the compatibility of its electronic equipment with that of the flag State's FMC and inform the European Union immediately of any malfunction concerning the sending and receiving of position messages with a view to finding a technical solution as soon as possible. The Joint Committee shall deal with any dispute that may arise.

– The master shall be considered responsible if a vessel's VMS is found to have been tampered with in order to disrupt its operation or falsify its position messages. Any infringement shall be subject to the penalties provided for under São Tomé and Príncipe law.

5. Revision of the frequency of position messages

– On the basis of documentary evidence pointing to an infringement, São Tomé and Príncipe may ask the flag State's FMC, copying in the European Union, to reduce the interval for sending position messages from a vessel to every thirty (30) minutes for a

set period of investigation. São Tomé and Príncipe shall send this documentary evidence to the flag State's FMC and the European Union. The flag State's FMC shall immediately send position messages to São Tomé and Príncipe at the new frequency.

– At the end of the set investigation period, São Tomé and Príncipe shall inform the flag State's FMC and the European Union of any follow-up that is required.

6. Sending of VMS messages to São Tomé and Príncipe

The code 'ER' followed by a double slash (//) indicates the end of the message.

Data	Code	Mandatory/ optional	Content
Start of record	**SR**	**M**	**System detail indicating start of record**
Addressee	**AD**	**M**	**Message detail – Addressee Alpha-3 country code (ISO-3166)**
From	**FR**	**M**	**Message detail – Sender Alpha-3 country code (ISO-3166)**
Flag State	**FS**	**M**	**Message detail – Flag State Alpha-3 code (ISO-3166)**
Type of message	**TM**	**M**	**Message detail – Type of message (ENT, POS, EXI, MAN)**
Radio call sign (IRCS)	**RC**	**M**	**Vessel detail – Vessel international radio call sign (IRCS)**
Contracting party internal reference number	**IR**	**M**	**Vessel detail – Unique contracting party number Alpha-3 code (ISO-3166) followed by number**
External registration number	**XR**	**M**	**Vessel detail – Number on side of vessel (ISO 8859.1)**
Latitude	**LT**	**M**	**Vessel position detail – Position in degrees and decimal degrees N/S DD.ddd (WGS84)**
Longitude	**LG**	**M**	**Vessel position detail – Position in degrees and decimal degrees E/W DD.ddd (WGS84)**
Course	**CO**	**M**	**Vessel course 360° scale**
Speed	**SP**	**M**	**Vessel speed in tenths of knots**
Date	**DA**	**M**	**Vessel position detail – Date of record of UTC position (YYYYMMDD)**
Time	**TI**	**M**	**Vessel position detail – Time of record of UTC position (HHMM)**
End of record	**ER**	**M**	**System detail indicating end of record**

– In NAF format, each data transmission shall be structured as follows:

– The characters used shall comply with ISO 8859.1. A double slash (//) and the characters ‘SR’ shall indicate the start of a message.

– Each data element shall be identified by its code and separated from the other data elements by a double slash (//).

– A single slash (/) shall separate the field code and the data.

– Before the provisional application of the Protocol, São Tomé and Príncipe shall state whether the VMS data are to be transmitted via FLUX TL, in UN/CEFACT format.

Appendix 6
Qualifications required by seamen from São Tomé and Príncipe for employment on board European Union seiners and longliners

The São Tomé and Príncipe authorities shall ensure that personnel recruited to work on EU vessels meet the following requirements:

1. The minimum age of seamen shall be 18.
2. Seamen shall be in possession of a valid medical certificate confirming that they are medically fit to perform the duties they are to carry out at sea. This certificate shall have been issued by a duly qualified medical practitioner.
3. Seamen shall have the valid vaccinations required for precautionary health purposes in the region.
4. Seamen shall possess, as a minimum, valid certification for the following basic safety training:
   (a) personal survival techniques, including the donning of lifejackets;
   (b) firefighting and fire prevention;
   (c) basic first aid;
   (d) personal safety and social responsibility; and
   (e) prevention of marine pollution.
5. Particularly in the case of large fishing vessels, seamen shall:
   (a) be familiar with the marine terms and orders commonly used on fishing vessels;
   (b) be familiar with the dangers associated with fishing operations;
   (c) have a good understanding of the operating conditions of fishing vessels and the dangers that they may pose;
   (d) be familiar with and have experience of using the fishing equipment to be used in purse-seine fishing;
   (e) have a general understanding and knowledge of the stability and seaworthiness of a vessel; and
   (f) have a general knowledge of mooring operations and the handling of mooring ropes, including their respective uses.

ANNEX II

Procedure for the approval of amendments to the Protocol to be adopted by the Joint Committee

Where the Joint Committee is called upon to adopt amendments to the Protocol in accordance with Articles 6 and 7(2) of the Protocol, the Commission shall be authorised to approve the proposed amendments on behalf of the Union, under the following conditions:

(1) The Commission shall ensure that the approval on behalf of the Union:

(a) is in accordance with the objectives of the common fisheries policy;

(b) is consistent with the relevant rules adopted by regional fisheries management organisations and takes account of joint management by coastal states;

(c) takes account of the latest statistical, biological and other relevant information sent to the Commission.

(2) Before the Commission approves proposed amendments on behalf of the Union, the Commission shall submit them to the Council sufficiently in advance of the relevant Joint Committee meeting.

(3) The compliance of the proposed amendments with the criteria laid down in point 1 of this Annex shall be assessed by the Council.

(4) Unless a number of Member States equivalent to a blocking minority of the Council in accordance with Article 16(4) of the Treaty on European Union object to the proposed amendments, the Commission shall approve them on behalf of the Union. If there is such a blocking minority, the Commission shall reject the proposed amendments on behalf of the Union.

(5) If, in the course of subsequent meetings of the Joint Committee, including on the spot, it is impossible to reach an agreement, the matter shall be referred once again to the Council, in accordance with the procedure set out in points 2 to 4, in order for the Union position to take account of new factors.

(6) The Commission is invited to take, in due time, any steps necessary as a follow-up to the decision of the Joint Committee, including, where appropriate, publication of the relevant decision in the *Official Journal of the European Union* and submission of any proposal necessary for the implementation of that decision.

(7) As regards other matters which do not concern amendments to the Protocol in accordance with Articles 6 and 7(2) thereof, the position to be adopted by the Union in the Joint Committee shall be determined in accordance with the Treaties and established working practices.