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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community

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 Agreement").

This Protocol includes an Annex and Appendices, which form an integral part of it.

2. The European Union ("the Union") and the Democratic Republic of São Tomé and Príncipe ("São Tomé and Príncipe"), hereinafter jointly referred to as "the Parties", 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 undertakes 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 undertake to ensure that this Protocol is implemented in accordance with Article 9 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States,[1] as last amended ("the Cotonou Agreement") as regards the essential elements concerning human rights, democratic principles and the rule of law, and the fundamental element concerning good governance.

[1] OJ EC L 317, 15.12.2000, p. 3.

4. The Parties undertake to promote sustainable development and sustainable and sound environmental management.

5. The Parties 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, Union vessels may fish 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 arrangements set out in the Annex.

ARTICLE 2

Fishing opportunities

1. For a period of five years from the date of provisional application of this Protocol, the fishing opportunities granted to Union vessels under Article 5 of the Agreement shall be established to allow fishing for highly migratory species (species listed in Annex I to the 1982 United Nations Convention on the Law of the Sea, in particular tuna, swordfish and oceanic sharks), with the exception of species protected or prohibited by the International Commission for the Conservation of Atlantic Tunas (ICCAT).

The fishing opportunities shall be allocated to:

(a) 28 tuna seiners; and

(b) 6 surface longliners.

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

ARTICLE 3

Financial contribution — methods of payment

1. For the period referred to in Article 2 of this Protocol, the financial contribution referred to in Article 7 of the Agreement shall be EUR 4 200 000.

2. The financial contribution referred to in paragraph 1 shall comprise:

(a) an annual amount of EUR 400 000 for access to São Tomé and Príncipe's fishing zone, 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. The amount of fees generated in the course of a year by the activities of vessels authorised under this Protocol, calculated on the basis of the reference tonnage referred to in point (a) of paragraph 2, is estimated, on average, at EUR 560 000.

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

5. For the entire period of application of this Protocol, the 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 points (a) and (b) of paragraph 2.

6. If the overall annual quantity of catches by Union vessels in São Tomé and Príncipe waters exceeds the annual reference tonnage referred to in point (a) of paragraph 2, 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 once an agreement has been reached on the final statements provided for in Section 2 of Chapter II of the Annex. However, the annual amount paid by the Union for additional catches shall not be more than twice the amount indicated in point (a) of paragraph 2. Where the amount owed by the Union for additional catches is more than twice the annual amount referred to in point (a) of paragraph 2, the amount of the overrun shall be paid the following year.

8. Payment of the financial contribution referred to in point (a) of paragraph 2 shall be made no later than 90 days after the date of provisional application of this Protocol in the first year and no later than the anniversary date of provisional application of this 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 point (a) of paragraph 2 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 point (a) of paragraph 2 shall be paid into an account held by the Public Treasury with the São Tomé and Príncipe Central Bank; the contributions provided for in point (b) of paragraph 2 and in paragraph 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 of São Tomé and Príncipe. It shall be aimed at supporting the sustainable management of fisheries resources and the development of the sector, in particular by:

(a) improving the monitoring, control and surveillance of fisheries activities;

(b) improving scientific knowledge of fisheries resources;

(c) improving the quality of fisheries products;

(d) supporting the development of small-scale fishing;

(e) strengthening international cooperation;

(f) supporting the development of aquaculture.

2. No later than three 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 Agreement ("the Joint Committee"), on a multiannual sectoral programme and rules for implementing it, in particular:

(a) annual and multiannual guidelines for using the specific financial contribution provided for in point (b) of Article 3(2) of this Protocol;

(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 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 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 point (b) of Article 3(2) shall not be paid out beyond a period of six months after this Protocol expires.

ARTICLE 5

Scientific and technical cooperation to ensure responsible fishing

1. During the period of application of this Protocol, the Union and São Tomé and Príncipe 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 Parties undertake to promote cooperation as regards responsible fishing.

3. The Parties undertake to comply with all ICCAT recommendations and resolutions.

4. In accordance with Article 4 of the 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, on possible measures aimed at the sustainable management of the fish species covered by this Protocol and affecting the activities of Union vessels.

5. With a view to the proper management and conservation of sharks, the Parties 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 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 2 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 provided for in point (a) of Article 3(2) shall be adjusted on a pro rata basis according to the length of time, and the changes shall be entered in this Protocol.

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 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 Union expresses an interest in these fisheries, the 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.

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 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 this Protocol's implementation

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

(a) unusual circumstances, as defined in point (h) of Article 2 of the 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 this Protocol;

(c) where one of the Parties notes that there has been a violation of the essential elements concerning 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 Union of the financial contribution provided for in point (a) of Article 3(2), for reasons other than those provided for in this Article;

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

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

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 this 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 this Protocol was suspended.

ARTICLE 10

Applicable legislation

1. The activities of 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 Agreement or in this Protocol.

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

3. The European Commission shall inform the São Tomé and Príncipe authorities of any change to the relevant legislation or of the adoption of any new legislation relating to the fishing activities of the Union's external fleet.

ARTICLE 11

Electronic exchange of information

1. São Tomé and Príncipe and the Union 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 Union shall inform each other immediately 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 Union undertake to ensure that all nominative data relating to 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 remedies may be established by the Joint Committee in accordance with the Regulation (EU) 2016/679 of the European Parliament and of the Council[1].

ARTICLE 13

Period of application

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

[1] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ EU L 119, 4.5.2016, p. 1).

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 referred to in paragraph 1 shall open consultations between the Parties.

ARTICLE 15

Provisional application

This Protocol shall apply on a provisional basis 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.

For the European Union	For the Democratic Republic of São Tomé and Príncipe

ANNEX

CONDITIONS GOVERNING FISHING ACTIVITIES BY 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 specified otherwise, any reference to the Union or to São Tomé and Príncipe as a competent authority shall mean:

(a) in the case of the Union: the European Commission, where applicable via the Union delegation with responsibility for São Tomé and Príncipe;

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

2. Fishing zone

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 Union immediately.

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 this Protocol, São Tomé and Príncipe shall notify the Union 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 Parties shall inform each other of their contact points set up to enable exchanges of information on the implementation of this 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 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 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 Union vessels may obtain an authorisation to fish in São Tomé and Príncipe's fishing zone.

In order for a Union 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 Union. Furthermore, they shall comply with Regulation (EU) 2017/2403 of the European Parliament and of the Council[1] on the sustainable management of external fishing fleets.

2. Application for a fishing authorisation

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

[1] Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ EU L 347, 28.12.2017, p. 81).

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

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

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

(b) a recent colour photograph of the vessel, showing a lateral view;

(c) a copy of the registration certificate of the vessel;

(d) 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 financial contribution referred to in point (a) of Article 3(2) of this Protocol.

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 15 working days of receipt of all the documents referred to in point 2 of this Section.

The originals shall be submitted to the Union via the 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 São Tomé and Príncipe's fishing 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 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 the fishing authorisation

A fishing authorisation shall be issued for a given vessel and shall not be transferable. However, at the request of the 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 arrangements 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 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 point 3 of this Section.

6. Support vessels

At the request of the Union, and following an examination by the São Tomé and Príncipe authorities, São Tomé and Príncipe shall authorise 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 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(10) of this 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, per tonne caught in São Tomé and Príncipe's fishing zone, is set at EUR 70 for the entire period of application of this 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 financial contribution referred to in point (a) of Article 3(2) of this Protocol.

4. For each Union 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 of the Union, before 30 June of the current year. São Tomé and Príncipe may challenge these final statements within 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 30 days, 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 45 days unless the vessel owner contests the statement. Outstanding balances shall be paid into the Fisheries 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 Union vessel carrying out fishing activities under this Protocol 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 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 this 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 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. São Tomé and Príncipe shall analyse the aggregated data referred to in paragraph 3 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

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

Union vessels operating in São Tomé and Príncipe waters under this Protocol shall notify the competent São Tomé and Príncipe authorities, at least three 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 the national legislation of São Tomé and Príncipe.

2. Inspection procedures

Inspections at sea, in port or off port in São Tomé and Príncipe's fishing zone on 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 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 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 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 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 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 Union vessel before leaving the vessel. The São Tomé and Príncipe authorities shall inform the Union of inspections carried out within 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 Union within a maximum of seven 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 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 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 this Section shall be prohibited in São Tomé and Príncipe waters. Any person infringing this provision shall be liable to the penalties provided for by the São Tomé and Príncipe regulations in force.

SECTION 2

SATELLITE-BASED VESSEL MONITORING SYSTEM

Any 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 VMS.

Union vessels shall communicate their position automatically and continuously, at least every hour in the case of seiners and at least every two 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, 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 seamen for the entire fleet for the first year of application of this Protocol, a total of eight seamen for the second year of application of this Protocol, and a total of 10 seamen per year for the last three years of application of this Protocol;

(b) in the case of the surface longliner fleet, a total of two 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 Union before the application of this 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 Organization (ILO) Declaration on Fundamental Principles and Rights at Work shall apply as of right to seamen signed on 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 responsible for fisheries and the signatories of the contracts, shall be drawn up between the vessel owners, or their agents, and the seamen or their trade unions or representatives. These contracts shall guarantee the seamen the social security cover applicable to them, in accordance with the applicable law, 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 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, 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 this Protocol shall take on board, instead of regional observers, observers designated by São Tomé and Príncipe, in accordance with the this Chapter.

2. Designated vessels and observers

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 responsible for fisheries under the following conditions:

(a) At the request of the competent São Tomé and Príncipe authorities, 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 months thereafter, as they may have been updated.

(c) The competent São Tomé and Príncipe authorities shall inform the 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, 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 weeks and giving 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 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 Union vessel holding a fishing authorisation in accordance with this Annex shall be the subject of an indictment report to be sent to the 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 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 Union within 24 hours of any detention of a 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 Union, within one 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 national legislation in force.

(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 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 Union may participate in this compromise procedure. The compromise procedure shall finish at the latest three 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 Union of the outcome of the legal proceedings within seven 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 TO THE ANNEX

Appendix 1	Coordinates of the Nigeria-São Tomé and Príncipe Joint Development Zone
Appendix 2	Application form for authorisation for a fishing vessel or support vessel
Appendix 3	Datasheet
Appendix 4	Implementation of the electronic system for recording and reporting fishing activities (ERS)
Appendix 5	Vessel monitoring system (VMS)
Appendix 6	Qualifications required by seamen from São Tomé and Príncipe for employment on board Union seiners and longliners

Appendix 1

COORDINATES OF THE NIGERIA-SÃO TOMÉ AND PRÍNCIPE
JOINT DEVELOPMENT ZONE

Latitude	Longitude
(Degrees, Minutes and Seconds)	
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)

I. 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):

……...

II. 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

III 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
□ other (specify):……...
27. Crew complement:…….
28. Method of preservation on board: □ fresh □ chilling □ mixed □ freezing
29. Freezing capacity in tonnes/24 hours……
30. Hold capacity:……Number:……..

Done at……, on…….

Signature of applicant……

Appendix 3

DATA SHEET

TUNA FREEZER SEINERS AND SURFACE LONGLINERS

1. Prohibited species

In accordance with the Convention on Migratory Species of Wild Animals 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 Union legislation, namely Regulation (EC) No 1185/2003[1], 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.

[1] Council Regulation (EC) No 1185/2003 of 26 June 2003 on the removal of fins of sharks on board vessels (OJ EU L 167, 4.7.2003, p. 1).

2. Gear and catches

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.

3. Vessel owners' fees – number of vessels

Additional fee per tonne caught	EUR 70 per tonne for the entire period of application of this 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 immediately.

(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 immediately 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 that date, made available immediately 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 immediately 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 immediately. 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 immediately 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 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 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 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 24 hours and affecting the systems under the supervision of the Union. São Tomé and Príncipe shall notify its competent monitoring services in order to ensure that 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 application of this Protocol.

It shall be used for:

(a) notifications of entry/exit and on-board catches on entry and exit;

(b) notifications of landing and transhipment and catches transhipped, landed or remaining on board;

(c) 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 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 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 immediately 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 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 the São Tomé and Príncipe legislation in force.

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 Union, to reduce the interval for sending position messages from a vessel to every 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 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 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 (M)/ Optional (O)	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 this 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 UNION SEINERS AND LONGLINERS

The São Tomé and Príncipe authorities shall ensure that personnel recruited to work on Union 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.