Council of the European Union

Brussels, 6 October 2021
(OR. en)

12402/21
ADD 1

Interinstitutional File:
2021/0312(NLE)

PECHE 338

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 October 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 613 final ANNEXES
Subject:	ANNEXES to the Proposal of a Council Decision on the conclusion, on behalf of the European Union, of the Protocol (2021-2024) on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

Delegations will find attached document COM(2021) 613 final ANNEXES.

Encl.: COM(2021) 613 final ANNEXES

EUROPEAN
COMMISSION

Brussels, 6.10.2021
COM(2021) 613 final

ANNEXES 1 to 2

ANNEXES

to the

Proposal of a Council Decision

on the conclusion, on behalf of the European Union, of the Protocol (2021-2024) on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

ANNEX I

PROTOCOL

on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

Article 1

Period of application and fishing opportunities

1. For a period of three years from the date of its provisional application, the fishing opportunities granted under Article 4 of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands (hereafter 'the Agreement') shall be as follows:

   – Four (4) tuna purse seine vessels to fish for highly migratory species as listed in Annex 1 of the 1982 United Nations Convention on the Law of the Sea.

2. Paragraph 1 shall apply subject to Article 5 of this Protocol.

3. Pursuant to Article 4 of the Agreement, Union vessels may engage in fishing activities in the Cook Islands' fishery areas only if they are in possession of a fishing authorisation issued under this Protocol in accordance with the Annex.

Article 2

Financial contribution — Methods of payment

1. For the period referred to in Article 1, the total financial contribution referred to in Article 5 of the Agreement shall be EUR two million one hundred thousand (2 100 000) for the whole duration of this Protocol.

2. This total financial contribution shall comprise two dissociated elements:

   (a) an annual amount for access to the Cook Islands' fishery areas of EUR three hundred and fifty thousand (350 000) per year, and

   (b) a specific annual amount of EUR three hundred and fifty thousand (350 000) for the support and implementation of the Cook Islands' sectoral fisheries policy and maritime policy.

3. For the amount referred in paragraph 2(a) the Cook Islands shall make available to Union Vessels at least 100 fishing days in the Cook Islands' fishing areas. Additional days could be made available to the EU vessels following the provisions detailed in the Annex.

4. Paragraph 1 shall apply subject to Articles 3 and 5 of this Protocol.

5. The Union shall pay the amounts fixed in paragraph 2(a) no later than ninety (90) days after the start of provisional application for the first year, and, for the following years, no later than the anniversary date of the provisional application of this Protocol.

6. The Cook Islands and Union authorities shall monitor the development of the fishing activities of Union vessels to ensure appropriate management of the fishing opportunities available to the Union taking into account the status of the stocks and relevant conservation and management measures.

7. The Cook Islands authorities shall have full discretion regarding the use of the financial contribution specified in Article 2 paragraph 2(a).

8. Each element of the financial contribution referred to in paragraph 2 shall be paid into a nominated Government bank account in the Cook Islands. The financial contribution referred to in paragraph 2(b) shall be made available to the relevant entity implementing fisheries sectoral support. The Cook Islands authorities shall provide in due time to the Union authorities with the bank account details and information on the relevant line in the national budgetary law. The bank account details shall at least include: name of beneficial entity, name of bank account holder, address of bank account holder; bank name; SWIFT code; IBAN number.

Article 3

Sectoral support

1. No later than 120 days after the start of the provisional application of the Protocol, the Joint Committee shall agree on a multiannual sectoral programme and detailed implementing rules covering, in particular:

   (a) annual and multiannual guidelines for using the specific amount of the financial contribution referred to in Article 2 paragraph 2(b);

   (b) the objectives, both annual and multiannual, to be achieved, over time, with a view to establish the governance framework, including the development and maintenance of the necessary scientific and research institutions, to promote consultation processes with interest groups, to enhance the monitoring, control and surveillance capability and other capacity-building items to assist Cook Islands to further enhance their national sustainable fisheries policy. The objectives shall take into account the priorities expressed by the Cook Islands in its national policies relating to or having an impact on the promotion of responsible fishing and sustainable fisheries, including marine protected areas;

   (c) criteria and procedures, including, where appropriate, budgetary and financial indicators, for evaluating the results obtained each year.

2. Any proposed amendments to the multiannual sectoral programme shall be approved by the Joint Committee.

3. If either Party requests a special meeting of the Joint Committee, it shall send a written request at least 14 days before the date of the proposed meeting.

4. Each year, in the frame of the Joint Committee, the two Parties shall evaluate the achievement of specific results in the implementation of the multiannual sectoral programme agreed.

   (a) Each year, the Cook Islands shall present a progress report on the actions implemented and the results achieved with sectoral support, which shall be examined by the Joint Committee. The Cook Islands shall also produce a final report before expiry of the Protocol. If necessary the Parties may continue to monitor the implementation of the sectoral support after the expiry of the Protocol.

   (b) The specific amount of the financial contribution referred to in Article 2 paragraph 2(b) shall be paid in instalments. For the first year of the Protocol, the instalment shall be paid on the basis of the needs identified as part of the agreed programming. For the subsequent years of application, the instalments

shall be paid on the basis of the needs identified as part of the agreed programming and on the basis of an analysis of the results achieved in the implementation of the sectoral support. Payment of the instalments shall occur no later than 45 days after the decision of the Joint Committee.

5. The Union reserves the right to revise and/or suspend, in part or in full, payment of the specific financial contribution provided for in Article 2 paragraph 2(b):

   (a) if the results obtained diverge significantly from the programming, following an evaluation by the Joint Committee;

   (b) in the event of failure to implement this financial contribution as determined by the Joint Committee.

6. Payment of the financial contribution shall resume after consultation between the Parties and agreement by the Joint Committee when it is justified on the basis of the results of the implementation of the agreed programming referred to in paragraph 1. Nevertheless, the specific financial contribution provided for in Article 2 paragraph 2(b) may not be paid out beyond a period of six (6) months after the Protocol expires.

7. Each year, the Cook Islands may allocate, if necessary, an additional amount to the financial contribution referred to in Article 2 paragraph 2(b) from the amount referred to in Article 2 paragraph 2(a) with a view to implementing the multiannual programme. This allocation shall be notified to the Union within two (2) months of the anniversary date of the start of provisional application of this Protocol.

8. The Parties undertake to ensure visibility of the measures implemented with sectoral support.

Article 4

Scientific cooperation on responsible fishing

1. During the period covered by this Protocol, recognising the sovereignty and sovereign rights of the Cook Islands over its fisheries resources, the Parties shall cooperate in monitoring the activities of the Union vessels and in the Cook Islands' fishery waters.

2. The Parties shall also cooperate, as may be required, to exchange relevant statistical, biological, economic, conservation and environmental information relating to the activities of Union vessels in the Cook Islands' fishery waters for the purpose of managing and conserving the marine living resources.

3. The Parties undertake to promote cooperation on conservation and responsible management of fisheries within the Western and Central Pacific Fisheries Commission (WCPFC) and any other relevant sub-regional, regional and international organisation.

Article 5

Review of fishing opportunities and technical provisions by the Joint Committee

1. The Joint Committee may reassess and decide to review the fishing opportunities referred to in Article 1 insofar as the conservation and management measures of the WCPFC support that such an adjustment will secure the sustainable management of tuna and tuna-like species in the Western and Central Pacific Ocean.

2. In this case the financial contribution referred to in Article 2 paragraph 2(a) shall be adjusted proportionately and *pro rata temporis*. However, the total annual amount paid by the Union shall not be more than twice the figure indicated in Article 2, paragraph 2(a).

3. The Joint Committee may also, as necessary, examine and decide to adapt by mutual agreement technical provisions of the Protocol and the Annex.

Article 6
Suspension

1. This Protocol, including payment of the financial contribution as referred to in Article 2 paragraphs 2(a) and (b), may be suspended at the initiative of either one of the Parties in the cases and under the conditions referred to in Article 13 of the Agreement.

2. Without prejudice to Article 3, payment of the financial contribution may resume as soon as the situation existing prior to the events mentioned in Article 13 of the Agreement has been re-established or a settlement has been reached in accordance with the Agreement.

Article 7
Termination

This Protocol may be terminated at the initiative of either one of the Parties in the cases and under the conditions referred to in Article 14 of the Agreement.

Article 8
Confidentiality

1. The Parties shall maintain the confidentiality and security of commercially sensitive and personal data concerning the Union fishing activities in the Cook Islands fishery waters.

2. The data shall be used by the competent authorities for the implementation of the Fisheries Agreement, in particular for management purposes and for monitoring, control and surveillance of fisheries activities. If used for other purposes, the Parties shall ensure that only aggregated data relating to fishing activities in the fishing zone are in the public domain.

3. For the proper implementation of the Protocol, several categories of personal data will be processed:

   (a) Identification and contact data

   (b) Data relating to vessel owners and operators (position or role), masters and crew members

   (c) All other data related to the subject matter of the Agreement.

4. Personal data shall not be kept beyond the time necessary for the purpose for which it was exchanged, at most 10 years, except if the personal data is necessary to allow the follow up of an infringement, an inspection, or judicial or administrative procedures, or scientific research. In these cases, the personal data may be stored for 20 years. If personal data is retained for a longer period, the data shall be anonymized.

5. The European Commission or the flag Member State, in the case of the Union, and the Ministry of Marine Resources, in the case of the Cook Islands, shall be the authorities responsible for the processing of data.

6. Appropriate safeguards and legal remedies may be established by the Joint Committee.

Article 9

Electronic exchanges of data

1. The Cook Islands and the Union will undertake to implement the necessary systems for the electronic exchange of all information and documents related to the implementation of the Agreement and the Protocol. The electronic form of a document at any point will be considered equivalent to the paper version.

2. The Parties will immediately notify the other Party of any disruption of an electronic system impeding such exchanges. In these circumstances, the information and documents related to the implementation of the Agreement and the Protocol shall be automatically replaced by their paper version in the manner defined in the Annex.

Article 10

Obligation on expiry of protocol or termination

1. Following the expiry of this Protocol or its termination in accordance with Article 14 of the Agreement, the Union shipowners shall continue to be liable for any breach of the provisions of the Agreement or this Protocol or any laws of the Cook Islands which occurred before the expiry or termination of this Protocol, or for any licence fee or any outstanding dues not paid at the time of such expiry or termination.

2. If necessary, the Parties shall continue to monitor the implementation of the sectoral support provided under point (b) of Article 2(2) of this Protocol, in line with Article 3(1) and sectoral support implementing rules.

Article 11

Provisional application

Signature of this Protocol by the Parties entails its provisional application prior to its entry into force.

Article 12

Entry into force

This Protocol shall enter into force when the Parties have notified each other of the completion of the necessary procedures.

ANNEX

CONDITIONS FOR THE PURSUIT OF FISHING ACTIVITIES BY EUROPEAN UNION VESSELS UNDER THE PROTOCOL SETTING OUT THE FISHING OPPORTUNITIES AND THE FINANCIAL CONTRIBUTION PROVIDED FOR BY THE SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND THE COOK ISLANDS

Chapter I

General provisions

Section 1

Definitions

1. 'Competent authority' means:

(a) for the European Union (hereafter 'the Union'): European Commission;

(b) for the Cook Islands: Ministry of Marine Resources.

2. 'Fishing authorisation' means a valid entitlement or licence to engage in fishing activities, for specific species, using specific gears, within the specified fishing areas in accordance with the terms provided under this Annex.

3. '*Force majeure'* means the loss or prolonged immobilisation of a vessel due to a serious technical failure.

4. 'Fishing day' means when a Union purse seine vessel undertakes any fishing during a calendar day, or part of the 24 hour (00:00-24:00) period of that calendar day, during which a Union purse seine vessel is in the Cook Islands fishery waters, but does not include a calendar day, or part of a calendar day defined as a "non-fishing day" in Appendix 1.

Section 2

Contacts

1. The Parties shall exchange, prior to the commencement of the provisional application of this Protocol, all relevant contact details for the implementation of this Protocol and communicate to one another as appropriate.

2. The Delegation of the European Union for the Pacific shall be in copy of all the communication exchanges between the competent authorities defined in Section 1 which are related to the implementation of this Annex.

Section 3

Fishing areas

1. Union vessels in possession of a fishing authorisation issued by the Cook Islands under the Agreement shall be authorised to engage in fishing activities in the Cook Islands' fishing areas, meaning the Cook Islands' fishery waters except protected or prohibited areas. The coordinates of the Cook Islands' fishery waters and of protected areas or closed fishing areas shall be communicated by the Cooks Islands to the Union prior to the start of provisional application of the Agreement.

2. The Cook Islands shall communicate to the Union any modification to the said areas in line with the provisions of Article 11 of the Agreement.

Section 4

Vessel agent

All Union vessels applying for a fishing authorisation may be represented by an agent (company or individual) resident in the Cook Islands, duly notified to the Cook Islands' competent authority.

Section 5

Eligible Union vessels

For a Union vessel to be eligible to obtain a fishing authorisation, neither the owner, the master nor the vessel itself must be prohibited from fishing in the Cook Islands' fishery waters. They must be in order with the laws of the Cook Islands and they must have fulfilled all prior obligations arising from their fishing activities in the Cook Islands under fisheries agreements concluded with the Union. Moreover, they shall comply with the relevant Union legislation regarding fishing authorisations, be on the WCPFC record of fishing vessels, be on the FFA good standing register and not be on a RFMO IUU vessels list.

Chapter II

Management of fishing authorisations

Section 1

Period of validity of the fishing authorisation

A fishing authorisation is valid for one year, referred to as the "annual period of validity". The starting date of this period is defined by the date of the provisional application of this Protocol. All subsequent fishing authorisations shall end on the anniversary date of this Protocol.

Section 2

Application for fishing authorisation

1. Only eligible Union vessels, as defined in Chapter I, Section 4 of this Annex, may obtain a fishing authorisation under this Protocol setting out the fishing opportunities and the financial contribution provided for by the Agreement.

2. The Union shall submit to the competent authority of the Cook Islands an application for a fishing authorisation for each Union vessel wishing to fish under the Agreement at least 20 working days before the expected starting date of fishing activities. The Cook Islands shall provide all required information on the licensing process to the Union one month before the Protocol enters into force and annually thereafter.

3. The shipowners shall pay the advance fees due for the full annual validity period of the fishing authorisation.

4. Before the provisional application of this Protocol, the Cook Islands shall notify the Union of the details of the Cook Islands' Public Treasury accounts into which the fees payable by the Union vessels under the Agreement must be paid. The associated bank transfer costs shall be borne by the ship owners.

5. For each initial application for a fishing authorisation, or following a major technical change to the vessel concerned, the application shall be submitted electronically by the Union to the competent authority of the Cook Islands using the form provided, or electronic system implemented, by the Ministry of Marine Resources and shall be accompanied by the following documents:

(a) proof of payment of the advance fee for the period of validity of the fishing authorisation;

(b) recent (12 months or less) date-stamped digital colour photographs of the vessel of a resolution 72dpi, 1 400 × 1 050 pic. showing a lateral view of the vessel including the vessel's name in ISO basic Latin alphabet;

(c) copy of the safety equipment certificate of the vessel;

(d) copy of the registration certificate of the vessel;

(e) copy of the ship sanitation control certificate;

(f) copy of certificate of registration under the FFA good standing register;

(g) stowage plan.

6. For the renewal of the fishing authorisation of a vessel whose technical specifications have not been modified, the renewal application shall only be accompanied by the proof of payment of the advance fee, current certificate of registration under the FFA Good standing register and copies of any renewed certificates as listed in point 5(c), (d) and (e).

7. The advance fee shall be paid into the bank account provided by the Cook Islands authorities.

8. Payments shall include all national and local charges except for port taxes and service charges.

9. Should an application happen to be incomplete or otherwise does not satisfy the conditions under points 5, 6, 7 and 8 above, the Cook Islands authorities shall, within 7 working days of receipt of the electronic application, notify the competent authority of the Union of the reasons for the application to be considered incomplete or otherwise not satisfying the conditions under points 5, 6, 7 and 8.

Section 3

Issue of fishing authorisation

1. The fishing authorisation shall be issued by the Cook Islands within 15 working days of receipt of the complete application by email.

2. The fishing authorisation shall be transmitted without delay by electronic means by the competent authority of the Cook Islands to the shipowner and to the competent authority of the Union. At the same time, a fishing authorisation in paper form shall be sent to the shipowner.

3. Upon issuing the fishing authorisation, the Cook Islands' competent authority shall include the vessel on a list of Union vessels authorised to fish in the Cook Islands' fishing areas. This list shall be made available to all relevant monitoring, control and surveillance entities of the Cook Islands and to the Union competent authority.

4. The electronic form of the fishing authorisation will be replaced by a paper form at the earliest opportunity.

5. A fishing authorisation shall be issued for a specific vessel and shall not be transferable.

6. The fishing authorisation (in electronic or paper form when available) must be kept on board the vessel at all times.

Section 4

Force majeure

1. Where force majeure is proven and at the request of the Union, a vessel's fishing authorisation may be suspended and transferred, for the remaining period of its validity, to another eligible vessel with similar characteristics and to whom a new fishing authorisation may be issued.

2. A fishing authorisation shall be issued to the new eligible vessel according to provisions established in Section 3 and subject to fulfilment of application conditions as laid out in Section 2, without the requirement of a new advance payment.

Section 5

Fishing authorisation conditions – fees and advance payments

1. A fishing authorisation shall be issued once the following amounts have been paid per Union vessel to the Cook Islands:

(a) an annual advance payment fee of EUR one hundred twelve thousand and five hundred (112 500) which shall give the right to the fishing vessel to fish for twenty-five (25) days within the Cook Islands' fishing areas.

(b) a special annual contribution for fishing authorisation of the amount of EUR thirty-eight thousand five-hundred (38 500).

2. If available, shipowners may purchase additional fishing days to those purchased under paragraph 1(a) upon request by the Union competent authority to the Cook Islands authorities. The prices to be paid by the shipowners for the additional days shall be of EUR eight thousand (8 000) per day. Until full payment for the additional days is made by the shipowner, that shipowner is restricted to using only the days purchased under paragraph 1(a).

3. A maximum of additional one hundred and ten (110) fishing days per year in total may be purchased by Union shipowners.

Chapter III

Monitoring

Section 1

Effort management and monitoring

1. The Cook Islands shall notify the Union authorities when the total effort of Union vessels reported in the Cook Islands' fishing areas reach 70 fishing days. On receipt of this notification, the Union authorities shall immediately notify the Member States.

2. Once the effort level of 70 fishing days has been reached, the Cook Islands shall monitor the level of effort of the Union vessels and inform the Union authorities immediately when 95 fishing days is reached. The Union authorities shall also immediately inform the Member States on receipt of the notification from the Cook Islands.

3. This monitoring shall include the decision taken by the Cook Islands Competent authority on the vessel operator's claims for non-fishing days. Where the shipowners do not agree with the decision adopted by the Cook Islands Competent authority on their non-fishing days claims, they may request the Union Competent authority to consult with the Flag State Fisheries Monitoring Centre and/or other relevant institutions with the view to finding a solution to the dispute.

4. The annual utilisation of fishing days by Union vessels shall be reviewed by the Joint Committee during its annual meeting.

Section 2

Catch recording and reporting

1. The Union vessels authorised to fish in the Cook Islands' fishing areas under the Agreement shall communicate their catches to the competent authority of the Cook Islands in the following manner, until such time as an electronic catch-reporting system ('ERS') is implemented by both Parties.

2. The Union vessels authorised to fish in the Cook Islands' fishing areas shall complete SPC/FFA Regional Purse Seine logsheets available at the Pacific Community (SPC) website[1] for each day of presence in the Cook Islands' fishing areas. In the absence of catches or when the vessel is only transiting, the form shall still be filled in. The form shall be filled in legibly and signed by the master of the vessel or his representative. Logsheets shall be used until compatible electronic reporting arrangements are implemented.

3. While in the Cook Islands' fishing areas, Union vessels shall report to the competent authority of the Cook Islands every seven days a summary of the fishing logbooks under point 2 using the Template No3 (catch report CAT) of Appendix 2.

4. As far as the submission of the fishing logbook sheets referred to in point 2 is concerned, the Union vessels shall:

(a) in the case they call into a Cook Islands port of entry (Avatiu, Arutanga, Tuanganui, Omoka, Tauhunu, Tukao, Yato), submit the completed form to the respective Cook Islands competent authority within five (5) days of arrival, or in any event before they leave port, whichever occurs first. The Cook Islands competent authority shall deliver a written receipt;

(b) when leaving the Cook Islands' fishing areas without first passing through a Cook Islands port of entry, copies of logbook sheets shall be sent within a period of fifteen (15) working days after leaving the Cook Islands fishing areas by the following means;

- by email, to the email address of the Cook Islands' competent authority; or

[1] https://oceanfish.spc.int/en/data-collection/241-data-collection-forms

- The original of each fishing logbook should be sent within a period of seven (7) working days following the first call in a port after leaving the Cook Islands' fishing areas.
- Copies of these fishing logbook sheets must simultaneously be sent to the relevant scientific institutes: IRD (Institut de Recherche pour le Développement) or IEO (Instituto Español de Oceanografia).

5. The words ‘Cook Islands' fishing areas’ shall be entered in the abovementioned logbook sheets in respect of periods during which the vessel is in the Cook Islands' fishing areas.

6. The two Parties will endeavour to implement electronic reporting and compatible arrangements for the electronic exchange of data and information for fishing activities of the Union vessels in the Cook Islands' fishing areas.

7. Once the electronic system of catch declaration is implemented it will fully replace the recording provisions outlined in points 2 to 4 above, except in case of technical problems or malfunction, where declarations of catches shall be made pursuant to points 2 to 4 above.

Section 3

Communication on entering and leaving the Cook Islands' fishery waters

1. Without prejudice to the obligations in Section 1 of this Chapter, Union vessels authorised to fish under the Agreement shall notify the Cook Islands competent authority at least 24 hours in advance of their intention to enter or exit the Cook Islands' fishing areas.

2. When notifying entry/exit, vessels shall also communicate the volume and species in catches kept on board. The vessel shall also communicate its estimated position at the time of estimated entry/exit. These communications shall be made in the format set out in Appendix 2, Templates No1 and No2, by email, to the contacts provided therein.

Section 4

Landing

1. The designated ports for landing activities in the Cook Islands are the Ports of Avatiu and Omoka. The Cook Islands competent authority may authorise landing activities in other designated ports in the Cook Islands. The Union competent authority shall be informed accordingly.

2. Union vessels in possession of a Cook Islands fishing authorisation wishing to land catches in the Cook Islands' designated ports shall notify the following information to the competent authority of the Cook Islands at least 72 hours in advance:

a) the landing port;

b) the name and IRCS of the landing fishing vessel;

c) the date and time of landing;

d) the quantity in kg, rounded to the nearest 100 kg, by species to be landed;

e) the product presentation.

3. Vessels must submit their landing declarations to the competent authority of the Cook Islands, no later than 48 hours after completion of the landing, or in any event, before the vessel leaves port, whichever occurs first.

Section 5

Transhipment

1. Union vessels in possession of a Cook Islands fishing authorisation wishing to tranship catches in the Cook Islands' fishery waters shall do so only within the Cook Islands' designated ports as stated in Chapter III, Section 1, point 4(a). Transhipment at sea outside ports is prohibited and any person infringing this provision shall be liable to the penalties provided for by Cook Islands law.

2. The shipowner or the vessel agent must notify the following information to the competent authority of the Cook Islands at least 72 hours in advance:

a) the transhipment port where the operation will occur;

b) the name and IRCS of the donor fishing vessel;

c) the name and IRCS of the receiving fishing vessel;

d) the date and time of transhipment;

e) the quantity in kg, rounded to the nearest 100 kg, by species to be transhipped;

f) the product presentation.

3. Union vessels shall submit their transhipment declarations to the competent authorities of the Cook Islands, no later than 48 hours after completion of the transhipment, or in any event, before the donor vessel leaves port, whichever occurs first.

Section 6

Vessel Monitoring System (VMS)

Without prejudice to the competence of the Flag State and the obligations of Union vessels towards their Flag State Fishing Monitoring Centre, each Union vessel shall comply with the FFA Vessel Monitoring System (FFA VMS) currently applicable in the Cook Islands' fishing areas.

Section 7

Observers

1. Union vessels in possession of a Cook Islands' fishing authorisation, while operating in the Cook Islands' fishing areas shall ensure observer coverage in accordance with the relevant WCPFC conservation and management measures and the relevant Cook Islands' legislation.

2. Union vessels shall carry on board an authorised observer from the WCPFC Regional Observer Programme or an IATTC observer authorised through the Memorandum of Understanding agreed between the WCPFC and IATTC on the cross-endorsement of observers.

Chapter IV

Control

1. Union vessels shall comply with the relevant provisions of the national legislation of the Cook Islands regarding fishing activities, as well as with the conservation and management measures adopted by the WCPFC.

2. Control procedures:

(a) Masters of Union vessels engaged in fishing activities in the Cook Islands' fishing areas shall cooperate with any Cook Islands authorised and duly identified officer(s) carrying out inspection and control of fishing activities;

(b) Without prejudice to the provisions of the national legislation of the Cook Islands, boarding should be conducted in such a way that the inspection platform and the inspectors can be identified as Cook Islands authorised officers;

(c) The Cook Islands shall make available to the Union competent authority the list of all inspection platforms used for sea inspections. This list should contain at least:

- Fisheries Patrol Vessels (FPV) names;
- FPV Vessel details;
- FPV photography;

(d) The Cook Islands may, on the request of the Union or a body designated by it, allow Union inspectors to observe the activities of Union vessels, including transhipments, during onshore-based controls;

(e) Once an inspection has been completed and the inspection report signed by the inspector, the report shall be made available for signature and comments, if any, by the master. This signature shall not prejudice the rights of the Parties in the context of alleged infringement procedures. A copy of the inspection report shall be given to the master of the vessel before the inspector leaves the vessel;

(f) inspectors shall not remain on board for longer than is necessary for the discharge of their duties.

3. Masters of Union vessels engaged in landing or transhipment operations in a port of the Cook Islands shall allow and facilitate the inspection of such operations by the Cook Islands' authorised officers.

4. Where the provisions set out in this Chapter are not complied with, the Cook Islands competent authority reserves the right to suspend the fishing authorisation of the offending vessel until formalities have been completed and to apply the penalty laid down in existing Cook Islands legislation. The flag Member State and the Union competent authority shall be immediately informed.

Chapter V

Enforcement

1. Sanctions

(a) Failure to observe any one of the provisions of this Protocol, of the conservation and management measures adopted by relevant regional fisheries management organisations, or of the Cook Islands' national law, shall be subject to penalties as laid down by the Cook Islands' national law.

(b) The flag Member State and the Union competent authority shall be immediately and fully informed of any sanction and of all relevant facts related thereto.

(c) Where a sanction takes the form of suspension or revocation of a fishing authorisation, during the remaining period for which the authorisation has been granted, the Union

competent authority may request another fishing authorisation, which would have otherwise been applicable, for a vessel from another shipowner.

2. Arrest and detention of Union vessels

(a) The Cook Islands shall inform immediately the Union competent authority and the flag Member State of the arrest and/or detention of any fishing vessel in possession of a fishing authorisation under the Agreement.

(b) The Cook Islands shall transmit a copy of the inspection report, detailing the circumstances and reasons of the arrest and/or detention, where practicable within forty-eight (48) hours to the Union competent authority and the flag Member State.

3. Information-exchange procedure in the event of arrest and/or detention

(a) Whilst respecting the deadlines and legal proceedings as provided for by the national laws of the Cook Islands relating to arrest and/or detention, a consultation meeting shall be held, upon receipt of the above information, between representatives of the Union competent authority and the Cook Islands, possibly attended by a representative of the Member State concerned.

(b) At the consultation meeting, the Parties shall exchange any relevant documentation or information helping to clarify the facts. The shipowner or its agent shall be informed of the outcome of the meeting and of any measure resulting from the arrest and/or detention.

4. Settlement of arrest and/or detention

(a) Reasonable efforts shall be made to resolve the presumed infringement expeditiously.

(b) In the event of a settlement, the amount to be paid shall be determined by referring to the national legislation of the Cook Islands. If such a settlement is not possible, the legal proceedings shall take its course.

(c) The Union vessel shall be released and its master discharged as soon as the obligations arising under the amicable settlement have been fulfilled and the legal proceedings have been completed.

5. The Union competent authority shall be kept informed of any proceedings initiated and penalties imposed.

Chapter VI

Cooperation in fighting IUU fishing

1. In order to strengthen the monitoring of fisheries and the fight against IUU fishing, masters of Union vessels will endeavour to report the presence in the Cook Islands' fishery waters of any other fishing vessel.

2. When the master of a Union vessel observes a fishing vessel engaged in activities that may constitute IUU fishing, they will gather as much information as possible about the vessel and its activity at the time it was sighted. Observation reports are sent without delay to the competent authority of the Cook Islands with a copy to the Flag State FMC.

3. The Cook Islands competent authority will submit as soon as possible to the Union any observation report in their possession relating to Union vessels engaged in activities that may constitute IUU activity in the fishery waters of Cook Islands.

APPENDIX 1

Vessel Days

Calculation of a Fishing Day and Non-Fishing Days

1) *Fishing Day:* When a Union purse seine vessel undertakes any fishing during a calendar day, or part of the 24 hour (00:00-24:00) period of that calendar day, during which a Union purse seine vessel is in the Cook Islands fishery waters, but does not include a calendar day, or part of a calendar day defined as a Non-Fishing Day.

2) Calculation of a fishing day:

a) If a purse seine vessel reports during any fishing day from positions in the Cook Islands fishery waters, that fishing day shall be allocated according to the actual times spent in the Cook Islands waters.

b) Where a purse seine vessel reports being in the Cook Islands fishery waters for the whole period (00:00-24:00) of a calendar day:

i) that (whole) calendar day shall be counted as a fishing day if any fishing activity is undertaken during that calendar day;

ii) that (whole) calendar day shall not be counted as a fishing day if the vessel complies with the requirements of a non-fishing day in paragraphs 3 to 6 of this Appendix

c) Where a purse seine vessel reports being in the Cook Islands fishery waters for less than the whole period (00:00-24:00) of a calendar day:

i) that part of a calendar day shall be counted as a part fishing day if any fishing activity has been undertaken in the zone during that period;

ii) that part of a calendar day shall not be counted as a fishing day if the vessel complies with the requirements of a non-fishing day in paragraphs 3 to 6 of this Appendix

d) There shall be no deduction of fishing days in respect of any period spent by a purse seine vessel within a Cook Islands port.

3) *Non-fishing day (NFD)*: For licensed vessels, any day or part of a day in the fishery waters shall be counted as a non-fishing day when there had been no fishing activity on that day for any of the reasons set out in paragraph 5.

4) Licensed Union vessels must submit NFD claims and submit these to the Cook Islands competent authority. Each NFD claim must include:

a. vessel name

b.IRCS

c. Date, time and position (LT/LG) of entry in to the Cook Islands fishery waters

d. Date, time and position (LT/LG) of exit from the Cook Islands fishery waters

e. Date, time and position (LT/LG) of cessation of fishing activity

f. Date, time and position (LT/LG) of recommencement of fishing activity

g. Specific reason for NFD as outlined in paragraph 5.

5) Specific reasons for not undertaking fishing activities:

a) Transit[2]: Only qualifies as a non-fishing day if a previous notification that the vessel will be transiting has been sent to the Cook Islands competent authority, specifying the transit destination, the entry point and the exit point.

b) Transit on full catch[2]: Only qualifies as a non-fishing day if a previous notification that the vessel has ceased fishing activities has been sent to the Cook Islands competent authority. If fishing activities have ceased, all fishing gear must be stowed, and the vessel should proceed maintaining a straight course and steady speed to the port destination. The cease fishing notification should include:

i) Vessel name

ii) IRCS

iii) Current position (LT/LG)

iv) Name of Port destination.

c) Bad weather: Only qualifies as a non-fishing day if the vessel is unable to make a set or any other fishing activity during the 24 hour period. The vessel captain must specify the reason for bad weather:

i) Strong winds (scale …)

ii) Rough seas

iii) Related to current

d) Deploying or retrieving FADs: Only qualifies as a non-fishing day if no fishing activity takes place during the 24 hour period, subject to verification against the report of the observer.

e) Bunkering: Only qualifies as a non-fishing day if no fishing activity takes place during the 24 hour period, subject to verification against the report of the observer.

f) Repairing net: Only qualifies as a non-fishing day if the vessel is only repairing net(s) with no fishing activity during the 24 hour period.

g) Net cleaning (trial) set: Only qualifies as a non-fishing day if no fishing activity takes place during the 24 hour period, the net is set in a straight line and without the purse wire attached, subject to verification against the report of the observer.

h) Breakdown: Only qualifies as a non-fishing day if the vessel is broken down with no fishing activity during the 24 hour period, and the breakdown prevents the vessel from fishing.

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[2] All fishing gears of the vessel must be stowed in a manner as not to be readily available for fishing; in particular, the boom must be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and launches must be secured. The vessel maintains a straight course and steady speed. If any fishing activity is undertaken, or any of the above requirements are not adhered to, then all the days on the transit will be treated as fishing days.

i) Emergency: Only qualifies as a non-fishing day if no fishing activity occurs within the 24 hour period, subject to verification against the report of the observer, and the emergency involves: (i) the health and safety of the crew; (ii) the safety of the vessel.

j) Search and Rescue: Only qualifies as a non-fishing day subject to verification against the observer report and by the Cook Islands competent authority. If the Search and Rescue results in the vessel returning to port, the Captain needs to inform the Cook Islands competent authority beforehand specifying:

i) The vessel's position;

ii) The port destination.

The vessel sailing for port shall ensure the following:

i) All fishing gears are stowed;

ii) The vessel proceeds directly from its position to its port destination; and

iii) The vessel maintains a straight course and steady speed.

If any fishing activity is undertaken on the vessel's return to port, or any of the above requirements are not adhered to, then all the days on the return travel will be treated as fishing days.

6) All reports shall be transmitted to the competent authority through the following email address: licensing@mmr.gov.ck.

APPENDIX 2

Communication Format Reports Templates

1. Entry Report (COE)[3]

Content	Transmission
Destination of message	
Action code	COE
Vessel Name	
IRCS	
Position of entry	LT/LG
Date and Time (UTC) of entry	DD/MM/YYYY – HH:MM
Quantity (Mt) of fish on board per	
Yellowfin	(Mt)
Bigeye Tuna	(Mt)
Skipjack	(Mt)
Others	(Mt)

2. Exit Report (COX)[4]

Content	Transmission
Destination of message	
Action code	COX
Vessel Name	
IRCS	
Position of exit	LT/LG
Date and Time (UTC) of exit	DD/MM/YYYY – HH:MM
Quantity (Mt) of fish on board per	
Yellowfin	(Mt)
Bigeye Tuna	(Mt)
Skipjack	(Mt)
Others	(Mt)

3. Catch Report (CAT) Format once inside fishing areas within Cook Islands waters[5].

Content	Transmission
Destination of message	
Action code	CAT
Vessel Name	
IRCS	
Date and Time (UTC) of report	DD/MM/YYYY – HH:MM
Quantity (Mt) of fish on board per	
Yellowfin	(Mt)
Bigeye Tuna	(Mt)
Skipjack	(Mt)
Others	(Mt)
Number of sets made since last	

All reports shall be transmitted to the competent authority through the following email address: licensing@mmr.gov.ck

[3] Sent twenty four (24) hours before entering fishing areas within the fishery waters of the Cook Islands.

[4] Sent twenty four (24) hours before exiting fishing areas within the fishery waters of the Cook Islands.

[5] Weekly after entering fishing areas within the fishery waters of the Cook Islands.

ANNEX II

PROCEDURE FOR THE APPROVAL OF AMENDMENTS TO THE PROTOCOL TO BE ADOPTED BY THE JOINT COMMITTEE

Where the Joint Committee is asked to adopt amendments to the Protocol in accordance with Article 6(3) of the Partnership Agreement, and of Article 5 of the Protocol, the Commission shall be authorised to approve the proposed amendments on behalf of the EU, under the following conditions:

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

(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 the proposed amendments on behalf of the EU, the Commission shall submit them to the Council in sufficient time before the relevant Joint Committee meeting.

3) The Council shall assess whether the proposed amendments comply with the criteria laid down in point 1 of this Annex.

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 EU. If there is such a blocking minority, the Commission shall reject the proposed amendments on behalf of the EU.

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

6) The Commission is invited to take, in due time, any steps necessary to follow up on the decision of the Joint Committee, including, where appropriate, publishing the relevant decision in the Official Journal of the European Union and submitting any proposal necessary for the implementation of that decision.

As regards other matters which do not concern amendments to the Protocol, in accordance with Article 6 of the Partnership Agreement, the position to be adopted by the EU in the Joint Committee shall be determined in accordance with the Treaties and established working practices.