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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.12.2007
COM(2007) 831 final

2007/0285 (CNS)

Proposal for a

COUNCIL DECISION

**on the conclusion, on behalf of the European Community, of the Southern Indian Ocean
Fisheries Agreement**

(presented by the Commission)

EXPLANATORY MEMORANDUM

In 2000, the South Indian Ocean fishing states together with FAO took the initiative to launch the process for the setting up a new regional fisheries organisation (Southern Indian Ocean Fisheries Agreement)

In November 2000, the Commission was mandated by the Council to participate in the negotiations of this Agreement on behalf of the Community.

After five Intergovernmental Conferences, (the last one held in Mombassa, Kenya in April 2005) interested parties reached agreement on a draft Fisheries Agreement. This text, after a review by an editorial group, constituted the final text which was adopted and then opened for signature at a Diplomatic Conference held in Rome on 7 July 2006.

The Community, through its active participation in the negotiations of the text, ensured that the text of the SIOFA Agreement reflects the latest legal international developments in international fisheries legislation. This new RFMO will exercise its responsibilities for the effective conservation and management of Non-Tuna species in the high seas of the Southern Indian Ocean according to the principles and standards laid down in the Law of the Sea.

Under Article XXIV, the Agreement shall enter into force ninety days from the date of receipt by the Depository of the fourth instrument of ratification, acceptance or approval, provided that at least two of such instruments are deposited by States bordering the Area.

The Community has fishing interests in the South Indian Ocean and is also a Coastal State on behalf of the Reunion Island. The Community is therefore obliged, under the terms of the UN Convention on the Law of the Sea to cooperate with other interested parties in the management and conservation of the region's resources.

The Community signed the SIOFA Agreement on 7 July 2006 in conformity with the Council Decision N° 2006/496/EC adopted by the Council on 6 July 2006.

The Community should therefore proceed to conclude the SIOFA Agreement in order to become full member of SIOFA.

The Council is therefore invited to adopt the attached Decision.

Proposal for a

COUNCIL DECISION

on the conclusion, on behalf of the European Community, of the Southern Indian Ocean Fisheries Agreement

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with the first sentence of the first subparagraph of Article 300 (2) and the first subparagraph of Article 300 (3) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Community is competent to adopt measures for the conservation and management of fisheries resources and to enter into agreements with other countries and international organisations.
- (2) The Community is a Contracting Party to the United Nations Convention on the Law of the Sea, which requires all members of the international community to co-operate in managing and conserving the biological resources of the sea.
- (3) The Community and its Member States have ratified the Agreement on the implementation of the provisions of the United Nations Convention on the law of the Sea of 10 December 1982, relating to the Conservation and Management of straddling Fish Stocks and Highly Migratory Fish Stocks.
- (4) The Community has participated in the negotiation process for the Southern Indian Ocean Fisheries Agreement (SIOFA) from the outset and has played an active and constructive role in that process which culminated in the adoption of that Agreement during the Diplomatic Conference held in Rome on 7 July 2006.
- (5) The SIOFA Agreement was opened for signature on 7 July 2006 and signed by the Community the same day in conformity with Council Decision 2006/496/EC².

¹ OJ C , , p. .

² OJ L 196, 18.07.2006, p. 14.

- (6) The Community fleet fishes in the area covered by the Agreement and it is in the interest of the Community to play an effective role in the implementation of that Agreement.
- (7) The Agreement should therefore be approved.

HAS ADOPTED THIS DECISION:

Article 1

The Southern Indian Ocean Fisheries Agreement ("the Agreement") is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person or persons empowered to deposit the instrument of approval with the Director General of the Food and Agriculture Organisation of the United Nations acting in his capacity as Depositary of the Agreement in accordance with Article XXV of the Agreement.

Done at Brussels,

*For the Council
The President*

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Conclusion, on behalf of the European Community, of the Southern Indian Ocean Fisheries Agreement (SIOFA)

2. ABM / ABB FRAMEWORK

1103: International Fisheries and Law of the Sea

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B..A lines)) including headings:

Budget line 11 03 02: Contribution to International Organisations

Budget line 11 01 04 05: Contribution to International Organisations – Expenditure on administrative management

3.2. Duration of the action and of the financial impact:

Open ended action from the entering into force of the Agreement onwards. Annual expenditure will depend on the contribution the Community must make to the Organisation's budget decided at the Annual Meeting of the SIOFA

3.3. Budgetary characteristics:

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
110302	Comp/	Diff ³ /	NO	NO	NO	No 2

³ Differentiated appropriations

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		2008	2009	2010	2011	2012	n + 5 and later	Total
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Operational expenditure⁴

Commitment Appropriations (CA)	8.1.	a	0.100	0.100	0.100	0.100	0.100	0.100	
Payment Appropriations (PA)		b	0.100	0.100	0.100	0.100	0.100	0.100	

Administrative expenditure within reference amount⁵

Technical & administrative assistance (NDA)	8.2.4.	c	0.050	0.050	0.050	0.050	0.050	0.050	
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TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	0.150	0.150	0.150	0.150	0.150	0.150	
Payment Appropriations		b+c	0.150	0.150	0.150	0.150	0.150	0.150	

Administrative expenditure not included in reference amount⁶

Human resources and associated expenditure (NDA)	8.2.5.	d	0.050	0.050	0.050	0.050	0.050	0.050	
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e	0.100	0.100	0.100	0.100	0.100	0.100	

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d +e	0.300	0.300	0.300	0.300	0.300	0.300	
TOTAL PA including cost of Human Resources		b+c +d +e	0.300	0.300	0.300	0.300	0.300	0.300	

⁴ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

⁵ Expenditure within article xx 01 04 of Title xx.

⁶ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

EUR million (to 3 decimal places)

Co-financing body		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
.....	f							
TOTAL CA including co-financing	a+c +d +e +f							

4.1.2. Compatibility with Financial Programming

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement⁷ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

EUR million (to one decimal place)

		Prior to action [Year n-1]	Situation following action					
Budget line	Revenue		[Year n]	[n+ 1]	[n+2]	[n+3]	[n+4]	[n+5] 8
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

⁷ See points 19 and 24 of the Interinstitutional agreement.

⁸ Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

Annual requirements	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later
Total number of human resources	0.4	0.4	0.4	0.4	0.4	0.4

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

The main objective of the Council Decision is to allow the EC to become full Member of the SIOFA, this is necessary to ensure the participation of the Community in the proceedings of the Organisations whose main goals are to ensure the long-term conservation and sustainable use of the fishery resources in the Area through cooperation among the Contracting Parties, and to promote the sustainable development of fisheries in the Area, taking into account the needs of developing States bordering the Area that are Contracting Parties to this Agreement, and in particular the least-developed among them and small island developing States.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

The European Community has fishing interests in the South Indian Ocean and is also a coastal State on behalf of the Reunion Island. The Community is therefore obliged, under the terms of the UN Convention on the Law of the Sea, to cooperate with other interested parties in the management and conservation of the region's resources.

The Community signed the SIOFA Agreement on 7 July 2006, in conformity with the Council Decision N° 2006/496/EC adopted by the Council on 6 July 2006.

The Community should therefore proceed to conclude the SIOFA Agreement in order to become full member of SIOFA.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

Regarding international sea matters, the Community will continue to play a leading role in enhancing and improving regional and international legal frameworks and strengthening cooperation with third countries and institutions, with a view to promoting sustainable fisheries, preserving marine biodiversity and the implementation of the Law of the Sea (LOS). To this end, the Community will contribute to a better functioning of **Regional Fisheries Organisations (RFOs)** and encourage the setting up of new RFOs covering high seas areas not yet subject to multilateral regulation. Better governance of ocean affairs should also be achieved through an increased commitment by the Community to develop the Law of the Sea.

In the SIOFA context this objective will be reached through multilateral negotiations during international meeting where the adoption of binding recommendations on Conservation and Management measures, the adoption of recommendations on the establishment of technical measures to regulate the fishing activities, in the SIOFA area of competence, will be discussed and possibly agreed.

5.4. Method of Implementation (indicative)

Centralised Management

X directly by the Commission

indirectly by delegation to:

executive Agencies

bodies set up by the Communities as referred to in art. 185 of the Financial Regulation

national public-sector bodies/bodies with public-service mission

Shared or decentralised management

with Member states

with Third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

Each year, when the Organisation's budget will be adopted, the Commission may examine, verify and comment on the draft budget submitted by the SIOFA Secretariat. The execution of these budgets is also scrutinised every year by the Contracting Parties. The budget is to be adopted by consensus of the Contracting Parties.

6.2. Evaluation

6.2.1. Ex-ante evaluation

The participation of the Community to SIOFA is essential in order to ensure that the EC can actively cooperate with other SIOFA Members in order to manage the fisheries stocks in the SIOFA area of competence in a sustainable way.

This action will be implemented through the participation of the EC to SIOFA plenary meetings as well as working groups.

This is the main long term EC objective in this context, whilst the results expected through the EC action within SIOFA are the adoption of recommendations on conservation measures, as well as measure of monitoring and surveillance of the fishing activities.

6.2.2. *Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)*

Not applicable – New proposal.

6.2.3. *Terms and frequency of future evaluation*

The outcomes of the SIOFA activities will be subject to an action of Performance Review of the Organisation any 3-5 years, in order to evaluate if its overall functioning from a financial, administrative and fishery management point of view, notably assessing the recommendations that have been adopted over the 3/5 years period and their impact on the fisheries stocks falling under its competence.

7. ANTI-FRAUD MEASURES

The European Commission negotiates audit clauses with international organisations in respect of the implementation of certain schemes/projects part-financed by the European Community. These clauses enable the Commission to verify the implementation of the operations for which it is providing part-financing by means of both documentary checks.

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No.1 ⁹ Meetings of the Organisation	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100		
Action 1																
- Output 1																
- Output 2																
Action 2																
- Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No.2 Recommendations adopted																
Action 1																
- Output 1																
Sub-total Objective 2																
OPERATIONAL OBJECTIVE No.n ¹																
Sub-total Objective n																
TOTAL COST	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100	1	0.100		

⁹ As described under Section 5.3

8.2. Administrative Expenditure

The needs in human and administrative resources will be met inside the appropriation allocated to the managing DG within the framework of the annual allocation procedure.

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ¹⁰ (XX 01 01)	A*/AD	0.2	0.2	0.2	0.2	0.2	0.2
	B*, C*/AST	0.1 0.1	0.1 0.1	0.1 0.1	0.1 0.1	0.1 0.1	0.1 0.1
Staff financed ¹¹ by art. XX 01 02							
Other staff ¹² financed by art. XX 01 04/05							
TOTAL		0.4	0.4	0.4	0.4	0.4	0.4

8.2.2. Description of tasks deriving from the action

These human resources cover the entire unit responsible for international and regional fisheries arrangements

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

¹⁰ Cost of which is NOT covered by the reference amount

¹¹ Cost of which is NOT covered by the reference amount

¹² Cost of which is included within the reference amount

8.2.4. *Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1 Technical and administrative assistance (including related staff costs)							
Executive agencies ¹³							
Other technical and administrative assistance							
- <i>intra muros</i>							
- <i>extra muros</i>	0.050	0.050	0.050	0.050	0.050	0.050	
Total Technical and administrative assistance	0.050	0.050	0.050	0.050	0.050	0.050	

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)	0.050	0.050	0.050	0.050	0.050	0.050
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
Total cost of Human Resources and associated costs (NOT in reference amount)	0.050	0.050	0.050	0.050	0.050	0.050

¹³ Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

Calculation– *Officials and Temporary agents*

2*A (2x 117,000 €)

1*B (1x 117,000 €) 0.050 million €

1*C (1x 117,000 €)

Calculation– *Staff financed under art. XX 01 02*

8.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions	0.100	0.100	0.100	0.100	0.100	0.100	
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ¹⁴							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0.100	0.100	0.100	0.100	0.100	0.100	

Calculation - *Other administrative expenditure not included in reference amount*

¹⁴ Specify the type of committee and the group to which it belongs.