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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	6 June 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL REGULATION on the allocation of fishing opportunities under the Implementing Protocol (2024-2029) to the Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde

Delegations will find attached document COM(2024) 234 final.

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EUROPEAN
COMMISSION

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Proposal for a

COUNCIL REGULATION

**on the allocation of fishing opportunities under the Implementing Protocol (2024-2029)
to the Fisheries Partnership Agreement between the European Community and the
Republic of Cabo Verde**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde (FPA) was signed on 12 February 2007 and entered into force on 30 March 2007 for a period of 5 years. It is tacitly renewable and is therefore still in force. A previous 5-year Implementing Protocol to the FPA entered into force on 20 May 2019 and expires on 19 May 2024.

On 19 December 2023 the Council authorised the Commission to open negotiations for a new Protocol ('the new Protocol') to the FPA.

On the basis of the relevant negotiating directives¹, the Commission conducted negotiations with Cabo Verde on concluding a new Implementing Protocol to the FPA between the European Community and Cabo Verde. The objective is to allow Union vessels to access Cabo Verde's fishing zone and to fish for tuna and associated species there, in compliance with the measures adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). Following these negotiations, a new text of the Implementing Protocol was initialled on 15 April 2024.

The new Protocol covers a period of 5 years from the date of provisional application laid down in Article 17.

The aim of the new Protocol is to grant fishing opportunities to Union vessels in the fishing zones located in Cabo Verde's waters, in accordance with scientific advice and ICCAT recommendations. Another objective is to enhance cooperation between the Union and Cabo Verde by implementing the FPA partnership framework in order to promote a sustainable fisheries policy and the responsible exploitation of fishery resources in Cabo Verde's waters, in the interest of both Parties.

The new Protocol authorises Union vessels to fish for tuna in Cabo Verde's waters and provides for the following fishing opportunities:

The new Protocol provides for the following fishing opportunities:

- 24 tuna seiners;
- 22 surface longliners;
- 10 pole-and-line vessels;

and support vessels in accordance with the relevant ICCAT resolutions.

The method for allocating the fishing opportunities among the Member States should be established.

• Consistency with existing policy provisions in the policy area

The main aim of the new Protocol to the FPA is to provide an updated framework that takes into account the priorities of the common fisheries policy and its external dimension. This will

¹ ref. 15485/23 + ADD 1, approved by Coreper, Part 1, on 15 December 2023; <https://data.consilium.europa.eu/doc/document/ST-16673-2023-INIT/en/pdf>

help maintain and strengthen the strategic partnership between the European Union and Cabo Verde.

The new Protocol provides for fishing opportunities for Union vessels targeting tuna and associated species in Cabo Verde's waters. It is based on the best available scientific advice and on recommendations made by the ICCAT, which is the regional fisheries management organisation responsible for the management of the highly migratory fish stocks. The management measures adopted by the ICCAT are also included in the relevant provisions of the common fisheries policy applicable to the ICCAT area, in particular those of the Fishing Opportunities Regulation².

- **Consistency with other Union policies**

The negotiation of a new Protocol to the FPA forms part of the Union's external action in relation to African, Caribbean and Pacific (ACP) countries and takes into account, in particular, the Union's objectives on respecting democratic principles and human rights.

The negotiations for a new Protocol to the FPA are consistent with the cooperation between the Parties on fisheries trade and development. Cabo Verde enjoys a 'temporary derogation'³ from the rules on preferential origin for limited quantities of prepared or preserved fillets and loins of tuna and prepared or preserved fillets of mackerel and frigate tuna of non-Union origin. Under the derogation, those products, which are sourced outside the Union and Cabo Verde and processed in Cabo Verde, acquire 'Cabo Verde' origin and can then be exported to the Union without incurring customs duties when entering the Union market (GSP+ system).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is Article 43(3) of the Treaty on the Functioning of the European Union, which establishes that the Council, on a proposal from the Commission, shall adopt measures on the allocation of fishing opportunities.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls within the exclusive competence of the European Union pursuant to Article 3(1)(d) TFEU. The subsidiarity principle therefore does not apply.

- **Proportionality**

The proposal is proportionate to the objective of establishing a legal, environmental, economic and social governance framework for fishing activities carried out by Union vessels in third-country waters, as set out in Article 31 of the Regulation establishing the common fisheries policy. It complies with those provisions as well as with those on financial assistance to third countries laid down in Article 32 of that Regulation.

² OJ L 28, 31.1.2023, p. 1. See Section 3 and Annex ID.

³ This 'temporary' derogation has been renewed regularly since 2008 and from 2017 it includes preserved tuna fillets and loins, pending the development of a national fleet and the signing of a regional Economic Partnership Agreement (EPA) with the Member States of the Economic Community of West African States (ECOWAS), which includes Cabo Verde.

3. RESULTS OF EX POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex post evaluations / fitness checks of existing legislation**

In 2023 the Commission carried out an *ex post* evaluation of the 2019-2024 Protocol to the Fisheries Partnership Agreement with Cabo Verde as well as an *ex ante* evaluation of a possible renewal of the Protocol⁴.

The *ex post* evaluation of the 2015-2018 Protocol concluded that it complemented the other access arrangements established in the region, allowing Union vessels to optimise exploitation of migratory stocks within the regional rules set by the ICCAT. The evaluation showed that the Union fishing sector has a strong interest in fishing in Cabo Verde and that the negotiation of a new Protocol was in the interest of both Parties. Furthermore, negotiating a new Protocol would help to strengthen monitoring, control and surveillance and would contribute to improved fisheries governance in the region.

For the Union, it is important to maintain an instrument allowing close sectoral cooperation with a country which, due to the size of the fishing area under its jurisdiction, is a major player in ocean governance at sub-regional level. For the Union fleet, this means restoring access to an important fishing area for the deployment of harvesting strategies in a multiannual international legal framework. Moreover, the port of Mindelo (São Vicente island) is a potentially significant landing port due to its favourable location in a busy fishing zone, which adds to the relevance of the intended new Protocol both for the Union fishing industry and for the partner country. For the Cabo Verdean authorities, the aim is to maintain relations with the Union in order to strengthen ocean governance, benefit from dedicated sectoral support that provides for funding opportunities over several years, and use the vessel activity to start industrialising its processing sector to help diversify its economy.

For the Union, it is important to maintain an instrument allowing for close sectoral cooperation with a country that is a major partner, a supplier of fishery products to the Union and a stakeholder on the international stage and that has fishing grounds of interest to the Union fleet.

- **Consultation of interested parties**

As part of the abovementioned evaluation, the Commission consulted Member States, industry representatives and international civil society organisations, as well as Cabo Verde's fisheries administration and civil society. Consultations also took place within the Long Distance Fisheries Advisory Council. These consultations led to the conclusion that it is in the interest of the European Union and Cabo Verde to maintain an instrument allowing for in-depth sectoral cooperation, with multiannual funding possibilities for Cabo Verde. It is in the interest of Union vessel owners to maintain access to an important fishing zone by means of a fisheries agreement.

⁴ European Commission, Directorate-General for Maritime Affairs and Fisheries, Defaux, V., Cappell, R., *Evaluation rétrospective et prospective du Protocole de mise en œuvre de l'accord de partenariat dans le domaine de la pêche entre l'Union européenne et la République de Cabo Verde – Rapport final* [Retrospective and prospective evaluation of the Implementing Protocol to the Fisheries Partnership Agreement between the European Union and the Republic of Cabo Verde – Final report], Publications Office of the European Union, 2023, <https://data.europa.eu/doi/10.2771/814998>

- **Collection and use of expertise**

The Commission used an independent consultant for the *ex post* and *ex ante* evaluations, in accordance with the provisions of Article 31(10) of the Regulation establishing the common fisheries policy.

4. BUDGETARY IMPLICATIONS

The draft regulation does not affect the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

This procedure is being initiated in parallel with the procedures relating to the proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Implementing Protocol (2024-2029) to the Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde, and the proposal for a Council Decision on its conclusion. This Regulation shall apply once fishing activities become possible under the Agreement, i.e. on the date of provisional application of the Protocol.

Proposal for a

COUNCIL REGULATION

on the allocation of fishing opportunities under the Implementing Protocol (2024-2029) to the Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde¹ (hereinafter: ‘the Agreement’), approved by Council Regulation (EC) No 2027/2006², entered into force on 30 March 2007. The Protocol thereto setting out the fishing opportunities and financial contribution provided for in the Agreement expired on 19 May 2024.
- (2) On 19 December 2023 the Council adopted a Decision³ authorising the Commission to open negotiations with Cabo Verde for the conclusion of a new Implementing Protocol (‘the Protocol’) to the Agreement.
- (3) The Commission has negotiated, on behalf of the European Union, a new Implementing Protocol to that Partnership Agreement (hereinafter: ‘the Protocol’). As a result of those negotiations, the Protocol was initialled on 15 April 2024.
- (4) In accordance with Council Decision (EU) 2024/...⁴, the Protocol was signed on [...], subject to its conclusion at a later date.
- (5) The fishing opportunities provided for in the Protocol for highly migratory fish stocks, established in accordance with the recommendations and resolutions adopted by the International Commission for the Conservation of Atlantic Tunas, should be allocated among the Member States for the entire period of its application.

¹ Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 3).

² Council Regulation (EC) No 2027/2006 of 19 December 2006 on the conclusion of the Fisheries partnership agreement between the European Community and the Republic of Cape Verde (OJ L 414, 30.12.2006, p. 1).

³ Council Decision authorising the opening of negotiations with the Republic of Cabo Verde for the conclusion of an Implementing Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Cabo Verde (ref. 15485/23 + ADD 1, approved by Coreper, Part 1, on 15 December 2023). <https://data.consilium.europa.eu/doc/document/ST-16673-2023-INIT/en/pdf>

⁴ Council Decision (EU) 2024/... of ... 2024 on ... (OJ C [...], [date], p. [...]).

- (6) These measures are urgent given the economic importance of Union fishing activities in Cabo Verde's fishing zone and the need to keep to a minimum any interruption of those activities. The Protocol will therefore apply on a provisional basis as from the date it is signed in order to allow Union vessels to carry out their fishing activity as soon as possible. This Regulation should therefore apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

The fishing opportunities established under the Implementing Protocol to the Fisheries Partnership Agreement between the European Community and Republic of Cabo Verde (hereinafter: 'the Protocol') shall be allocated among the Member States as follows, throughout the period of application of the Protocol:

(a) tuna seiners:

Spain:	14	vessels
France:	10	vessels
Total	24	vessels;

(b) pole-and-line tuna vessels:

Spain:	6	vessels
France:	3	vessels
Portugal:	1	vessel
Total	10	vessels;

(c) surface longliners:

Spain:	17	vessels
Portugal:	5	vessels
Total	22	vessels.

Article 2

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

It shall apply from [*the date of signature of the Protocol should be inserted here*].

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

Done at Brussels,

*For the Council
The President*