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European Union

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community
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COUNCIL DECISION (EU) 2019/...

of ...

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 in conjunction with point (a)(v) of the second subparagraph of Article 218(6) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹⁺,

¹ Consent of ... (not yet published in the Official Journal).

⁺ OJ: please complete the footnote above.

Whereas:

- (1) On 23 July 2007 the Council adopted Regulation (EC) No 894/2007¹, concluding the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community² ('the Agreement'). The Agreement entered into force on 29 August 2011 and remains in force.
- (2) On 18 December 2017 the Council authorised the Commission to open negotiations with the Democratic Republic of São Tomé and Príncipe ('São Tomé and Príncipe') with a view to the conclusion of a new protocol to implement the Agreement.
- (3) The previous protocol to the Agreement expired on 22 May 2018.
- (4) The Commission has negotiated a new protocol on behalf of the Union. Following the conclusion of the negotiations, the new protocol was initialled on 17 April 2019.

¹ Council Regulation (EC) No 894/2007 of 23 July 2007 on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community (OJ L 205, 7.8.2007, p. 35).

² OJ L 205, 7.8.2007, p. 36.

- (5) In accordance with Council Decision (EU) 2019/...¹⁺, the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community ('the Protocol') was signed on ...⁺⁺.
- (6) The Protocol has been applied on a provisional basis since the date of its signature.
- (7) The objective of the Protocol is to enable the Union and São Tomé and Príncipe to work together more closely in order to promote a sustainable fisheries policy and the sound exploitation of fisheries resources in São Tomé and Príncipe waters and to support efforts by São Tomé and Príncipe to develop its fisheries sector.
- (8) The Protocol should be approved.

¹ Council Decision (EU) 2019/... of ... on the signing, on behalf of the European Union, and provisional application of the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community (OJ L ...).

⁺ OJ: Please insert the number of the Decision contained in document ST 12198/19 in the text and complete the corresponding footnote.

⁺⁺ OJ: Please insert the date of the signature of the Protocol contained in document ST 12202/19.

- (9) Article 9 of the Agreement establishes a Joint Committee responsible for monitoring the application of the Agreement. Furthermore, in accordance with that Article and Articles 6 and 7(2) of the Protocol, the Joint Committee can adopt certain amendments to the Protocol. In order to facilitate the approval of such amendments, the Commission should be empowered, subject to specific substantive and procedural conditions, to approve them on behalf of the Union through a simplified procedure.
- (10) The Union's position on the amendments to the Protocol should be established by the Council. The proposed amendments will be approved, unless a blocking minority of Member States object in accordance with Article 16(4) of the Treaty on European Union.
- (11) The position to be taken by the Union in the Joint Committee with regard to other matters should be determined in accordance with the Treaties and established practices,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community is hereby approved on behalf of the Union¹⁺.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 16 of the Protocol.

Article 3

In accordance with the procedure set out in the Annex to this Decision, the Commission is authorised to approve, on behalf of the Union, the amendments to the Protocol to be adopted by the Joint Committee set up in accordance with Article 9 of the Agreement.

¹ The text of the Protocol has been published in ... together with the decision on signature.
⁺ OJ: Please complete the footnote above.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at ...,

For the Council

The President

ANNEX

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

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

- (1) The Commission shall ensure that the approval on behalf of the Union:
 - (a) is in accordance with the objectives of the common fisheries policy;
 - (b) is consistent with the relevant rules adopted by regional fisheries management organisations and takes account of joint management by coastal states;
 - (c) takes account of the latest statistical, biological and other relevant information sent to the Commission.
- (2) Before approving proposed amendments on behalf of the Union, the Commission shall submit them to the Council sufficiently in advance of the relevant Joint Committee meeting.
- (3) The compliance of the proposed amendments with the criteria set out in point (1) shall be assessed by the Council.

- (4) Unless a number of Member States equivalent to a blocking minority in the Council in accordance with Article 16(4) of the Treaty on European Union object to the proposed amendments, the Commission shall approve them on behalf of the Union. If there is such a blocking minority, the Commission shall reject the proposed amendments on behalf of the Union.
- (5) If, in the course of subsequent meetings of the Joint Committee, including on-the-spot meetings, it is impossible to reach an agreement, the matter shall be referred once again to the Council, in accordance with the procedure set out in points (2) to (4), in order for the Union position to take account of new factors.
- (6) The Commission is invited to take, in due time, any steps necessary as a follow-up to the decision of the Joint Committee, including, where appropriate, the publication of the relevant decision in the *Official Journal of the European Union* and the submission of any proposal necessary for the implementation of that decision.
- (7) As regards other matters which do not concern amendments to the Protocol in accordance with Articles 6 and 7(2) thereof, the position to be adopted by the Union in the Joint Committee shall be determined in accordance with the Treaties and established working practices.
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