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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 March 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL DECISION on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)

Delegations will find attached document COM(2019) 137 final.

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EUROPEAN
COMMISSION

Brussels, 14.3.2019
COM(2019) 137 final

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Proposal for a

COUNCIL DECISION

on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)

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 Cape Verde¹ (hereinafter ‘the Agreement’) entered into force on 30 March 2007². The current Protocol to the Agreement entered into force on 23 December 2014 and will expire on 22 December 2018.

On the basis of the relevant negotiating directives³, the Commission conducted negotiations with the Government of the Republic of Cape Verde (hereinafter ‘Cabo Verde’) with a view to concluding a new Protocol to the Agreement. Following these negotiations, a new Protocol was initialled on 12 October 2018. The Protocol covers a period of five years from the date of its provisional application, i.e. from the date on which it is signed, as stated in Article 15 thereof.

• Consistency with existing policy provisions in the policy area

In accordance with the priorities of the Fisheries Policy reform⁴, the new Protocol provides fishing opportunities for Union vessels in Cabo Verde waters, on the basis of the best available scientific advice and following the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This new Protocol takes into account the results of an evaluation of the previous Protocol (2014-2018) and of a forward-looking assessment of whether a new Protocol should be concluded. Both were carried out by external experts. The Protocol will also enable the European Union and the Republic of Cabo Verde to work more closely on promoting sound exploitation of fisheries resources in Cabo Verde waters and support efforts by Cabo Verde to develop its blue economy, in the interests of both parties.

The Protocol provides for fishing opportunities in the following categories:

- 28 freezer tuna seiners,
- 27 surface longliners,
- 14 pole-and-line tuna vessels.

• Consistency with other Union policies

The negotiation of a new protocol to the Fisheries Partnership Agreement with Cabo Verde forms part of the Union’s external action in relation to ACP countries and takes into account, in particular, Union objectives on respecting democratic principles and human rights.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis chosen is the Treaty on the Functioning of the European Union, Article 43(2) of which establishes the Common Fisheries Policy and Article 218(6)(a)(v) the relevant stage

¹ OJ L 414, 30.12.2006, p. 3.

² OJ L 107, 25.4.2007, p. 7.

³ Adopted at the Justice and Home Affairs Council on 4-5 June 2018.

⁴ OJ L 354, 28.12.2013, p. 22.

of the procedure for the negotiation and conclusion of agreements between the Union and third countries.

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

The proposal falls under the exclusive competence of the European Union.

- **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.

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

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

In 2018, the Commission carried out an ex-post evaluation of the current Protocol to the Fisheries Partnership Agreement with Cabo Verde, along with an ex-ante evaluation of a possible renewal of the Protocol. The conclusions of the evaluation are presented in a separate working document⁵.

The evaluation report concluded that the EU tuna fishing sector has a strong interest in fishing in Cabo Verde and that a renewal of the Protocol would help strengthen monitoring, control and surveillance and contribute to improved governance of the fisheries in the region. The importance of Mindelo (island of São Vicente) as one of the main landing ports and processing sites in West Africa contributes to the relevance of the envisaged new Protocol, both for the EU tuna fishing sector and for the partner country.

- **Consultation of interested parties**

The Member States, industry representatives and international civil society organisations, as well as Cabo Verde's fisheries administration and civil society representatives, were consulted as part of the evaluation. Consultations also took place in the framework of the Long Distance Advisory Council.

- **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 annual financial contribution from the European Union is EUR 750 000, based on:

a) a reference tonnage of 8 000 tonnes per year, for which an annual amount linked to access has been set at EUR 400 000 per year for the entire duration of the Protocol.

b) support for the development of the sectoral fisheries policy and the blue economy of Cabo Verde for an amount of EUR 350 000 per year for the entire duration of the Protocol. This

⁵ SWD(2018) 194 final, 16.5.2018.

support meets the objectives of Cabo Verde's national policy on the sustainable management of its continental and maritime fishery resources for the entire duration of the Protocol.

The annual amount for commitment and payment appropriations is established during the annual budgetary procedure, including for the reserve line for protocols not having entered into force at the beginning of the year⁶.

⁶ In accordance with the Interinstitutional Agreement on cooperation in budgetary matters (2013/C 373/01).

Proposal for a

COUNCIL DECISION

on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof, in conjunction with Article 218(6)(a)(v), and Article 218(7),

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) On 19 December 2006, the Council adopted Regulation (EC) No 2027/2006² on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (hereinafter ‘the Agreement’)³, which entered into force on 30 March 2007, was tacitly renewed later, and which remains in force.
- (2) The previous Protocol on the implementation of the Agreement will expire on 22 December 2018.
- (3) The Commission has negotiated, on behalf of the European Union, a new Protocol on the implementation of the Agreement (hereinafter ‘the Protocol’). The Protocol was initialled at the end of those negotiations on 12 October 2018.
- (4) In accordance with Council Decision 2018/.../EU⁴, the Protocol was signed on [*insert date of signature*].
- (5) The Protocol has been applied provisionally from the date of its signature.
- (6) The objective of the Protocol is to enable the European Union and the Republic of Cabo Verde to work more closely on promoting a sustainable fisheries policy, sound exploitation of fisheries resources in Cabo Verde waters, and efforts by Cabo Verde to develop a blue economy.
- (7) The Protocol should be approved on behalf of the European Union.
- (8) Article 9 of the Agreement establishes the Joint Committee responsible for monitoring its implementation. Furthermore, in accordance with Article 6(3) and Article 7(1) and (2) of the Protocol, the Joint Committee may approve certain amendments to the

¹ OJ C , , p. .

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 OJ L 414, 30.12.2006, p. 3.

⁴

Protocol. In order to facilitate the approval of such amendments, the Commission should be empowered, subject to specific conditions, to approve them under a simplified procedure,

HAS ADOPTED THIS DECISION:

Article 1

The Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde (2019-2024) (hereinafter ‘the Protocol’) is hereby approved on behalf of the Union.

The text of the Protocol is attached to this Decision as Annex I.

Article 2

In accordance with the provisions and conditions laid down in Annex II to this Decision, the Commission is authorised to approve, on behalf of the Union, amendments to the Protocol adopted by the Joint Committee established under Article 9 of the Fisheries Partnership Agreement between the European Community and the Republic of Cape Verde.

Article 3

The President of the Council shall designate the person(s) empowered to carry out, on behalf of the Union, the notifications provided for in Article 16 of the Protocol, in order to express the Union’s consent to be bound by the Protocol.

Article 4

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

Done at Brussels,

For the Council
The President