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2019/0171 (NLE)

Proposal for a

COUNCIL REGULATION

on the allocation of fishing opportunities under the Protocol on the implementation of the Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• **Reasons for and objectives of the proposal**

On the basis of the relevant negotiating directives¹, the Commission conducted negotiations with the Government of the Democratic Republic of São Tomé and Príncipe ('São Tomé and Príncipe') with a view to concluding a new Protocol to the existing Fisheries Partnership Agreement. Following these negotiations, a new Protocol was initialled on 17 April 2019. 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.

The Protocol provides for the following fishing opportunities for Union vessels:

- 28 freezer tuna seiners;
- 6 surface longliners.

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

• **Consistency with existing policy provisions in the policy area**

In accordance with the priorities of the fisheries policy reform², the new Protocol provides fishing opportunities for Union vessels in São Tomé and Príncipe 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 account of 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 São Tomé and Príncipe to work more closely on promoting sound exploitation of fisheries resources in the waters of São Tomé and Príncipe and support efforts by São Tomé and Príncipe to develop its fisheries sector, in the interests of both parties.

• **Consistency with other Union policies**

The negotiation of a new protocol to the Fisheries Partnership Agreement with São Tomé and Príncipe forms part of the Union's external action in relation to African, Caribbean and Pacific 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(3) of 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 policy area is an exclusive competence.

¹ Adopted at the Transport, Telecommunications and Energy Council on 18 December 2017.

² OJ L 354, 28.12.2013, p. 22.

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

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

The interested parties were consulted during the ex post and ex ante evaluations on a possible new Protocol between the European Union and the Democratic Republic of São Tomé and Príncipe. Experts from the Member States and the fishing industry were also consulted in technical meetings. These consultations led to the conclusion that it would be beneficial for the European Union and the Democratic Republic of São Tomé and Príncipe to conclude a new Protocol to the Fisheries Agreement.

- **Consultation of interested parties**

Member States, fishing industry representatives, international civil society organisations, as well as São Tomé and Príncipe's fisheries administration and civil society 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 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 Council Decision on the signing, on behalf of the Union, of the Protocol to the Fisheries Partnership Agreement between the European Community and the Democratic Republic of São Tomé and Príncipe and to the Council Decision on its conclusion. This Regulation must be applied once fishing activities become possible under the Agreement, i.e. on the date of provisional application of the Protocol.

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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) On 23 July 2007, the Council adopted Council Regulation (EC) No 894/2007³ on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community (hereinafter referred to as ‘the Agreement’)⁴. This Agreement entered into force on 29 August 2011 and is still in force.
- (2) A new Protocol on the implementation of the Agreement (‘the Protocol’) was signed on [*insert date of signature*], in accordance with Council Decision 2019/.../EU⁵.
- (3) The fishing opportunities provided for in the Protocol should be allocated among the Member States for the entire duration of application of the Protocol.
- (4) This Protocol shall apply provisionally from the date of its signing. In order to ensure an expeditious start to fishing activities by Union vessels, this Regulation should therefore apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

The fishing opportunities established under 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’) shall be allocated among the Member States as follows:

a) tuna seiners:

Spain: [16] vessels

France: [12] vessels

³ Council Regulation (EC) No 894/2007 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).

⁴ OJ L 205, 7.8.2007, p. 36.

⁵ OJ L , , p. .

b) surface longliners:

Spain: [5] vessels

Portugal: [1] vessel(s)

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 application of the Protocol.

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

Done at Brussels,

*For the Council
The President*