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EUROPEAN COMMISSION

Brussels, 13.12.2010
COM(2010) 737 final

2010/0357 (NLE)

Proposal for

COUNCIL REGULATION (EU) No .../..

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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On the basis of a mandate from the Council¹, the European Commission has negotiated with the Democratic Republic of São Tomé and Príncipe to renew the Protocol to the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe, which dates from 23 July 2007² and expired on 31 May 2010. On conclusion of these negotiations, a new Protocol was initialled on 15 July 2010 covering a period of three years from the time of the adoption of the Council Decision on the signing, on behalf of the Union, and provisional application of the said Protocol.

The attached proposal for a Regulation relates to the allocation of fishing opportunities among the Member States concerned, by category of vessel, as indicated in the Protocol.

The Commission is asked to adopt this proposal and transmit it to the Council.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission defined the fishing opportunities offered to European Union vessels in the waters of the Democratic Republic of São Tomé and Príncipe partly on the basis of the results of an ex-post evaluation carried out by external experts. Specific requests made by Member States during the negotiations were also taken into account.

The overall objective is to continue the cooperation between the European Union and the Democratic Republic of São Tomé and Príncipe, thereby strengthening a partnership framework in the fisheries sector that has existed since 2006, in order, in particular, to contribute to developing a sustainable fisheries policy and sound exploitation of fishery resources in the São Toméan fishing zone, in the interests of both Parties.

The new Protocol is in keeping with the two Parties' concern to strengthen partnership and cooperation in the fisheries sector using all the financial instruments available. To this end, it should be reiterated that there is a need to create a framework which is favourable to the development of investment in this sector and optimising the production of small-scale fisheries.

The new Protocol to the Partnership Agreement was transmitted to the Council for it to approve the signing and provisional application thereof. It was also transmitted to the Council and to the Parliament with a view to its conclusion.

¹ Decision No 8627/10 of 21 April 2010.

² OJ L 205, 7.8.2007, p. 59.

3. LEGAL ELEMENTS OF THE PROPOSAL

This procedure relating to the Council Regulation on the allocation of fishing opportunities under the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe is initiated in parallel with the procedures relating to:

- the Council Decision with the consent of the European Parliament on the conclusion of the new Protocol itself, and
- the Council Decision on the signing of the Protocol and its provisional application.

With regard to the fishing opportunities, 28 tuna seiners and 12 surface longliners will be authorised to fish under the new Protocol. In accordance with the Treaty, the method for allocating the fishing opportunities among the Member States should be defined.

4. BUDGETARY IMPLICATION

The overall financial contribution under the Protocol of EUR 2 047 500 over the whole period is based on:

- (a) an annual reference tonnage set at 7 000 tonnes for 40 vessels, corresponding to EUR 455 000 per year, and
- (b) support for the development of the sectoral fisheries policy of the Democratic Republic of São Tomé and Príncipe, amounting to EUR 227 500 per year. This support meets the objectives of the national fisheries policy.

5. OPTIONAL ELEMENTS

As indicated, this proposal for a Regulation relates to fishing opportunities for 40 European vessels. Nevertheless, on the basis of the annual assessments of the state of stocks, these fishing opportunities could be revised upwards or downwards, which would lead to a corresponding review of the financial contribution.

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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 Commission³,

Whereas:

- (1) The European Union and the Democratic Republic of São Tomé and Príncipe have negotiated and initialled, on 15 July 2010, a new Protocol to the Fisheries Partnership Agreement providing European Union vessels with fishing opportunities in the waters over which the Democratic Republic of São Tomé and Príncipe has sovereignty or jurisdiction in respect of fisheries.
- (2) On [...], the Council adopted decision XXX/2010/EU⁴ on the signing and provisional application of the new Protocol.
- (3) The method for allocating the fishing opportunities among the Member States should be defined, both for the period of provisional application and for the duration of the Protocol.
- (4) In order to ensure that the fishing opportunities available to the European Union under the Protocol are used in full, the Commission should be empowered to temporarily reallocate fishing opportunities not used by one Member State to another Member State, without affecting the allocation or exchange of fishing opportunities among the Member States under the Protocol.
- (5) This Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

³ OJ C , , p. .

⁴ OJ C , , p. .

HAS ADOPTED THIS REGULATION:

Article 1

1. The fishing opportunities set out in the Protocol to the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe, as provided for in Decision XXX/2010/EU on the signing and provisional application of the Protocol to the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe, shall be allocated among the Member States as follows:
 - (a) tuna seiners:

Spain	15 vessels
France	13 vessels
 - (b) surface longliners:

France	9 vessels
Portugal	3 vessels
2. Without prejudice to the provisions of the Agreement and the Protocol, Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters⁵ shall apply.
3. If applications for fishing authorisations from the Member States referred to in paragraph 1 do not cover all the fishing opportunities set by the Protocol, the Commission may consider applications for fishing authorisations from any other Member State in accordance with Article 10 of Regulation (EC) No 1006/2008.
4. If it appears that the fishing opportunities referred to in paragraph 1 are not being fully used, the Commission shall inform the Member States concerned and request them to confirm that they are not making use of those fishing opportunities. Absence of a reply within 10 days shall be considered as confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities during the period in question. After confirmation by the Member State concerned, the unused fishing opportunities shall be made available to the Member States.

Article 2

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

⁵ OJ L 286, 29.10.2008, p. 33.

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

Done at Brussels,

For the Council
The President