



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 3 October 2013
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION authorising Member States to sign, ratify or accede to the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977

COUNCIL DECISION

of

**authorising Member States
to sign, ratify or accede to the Cape Town Agreement of 2012
on the Implementation of the Provisions of the Torremolinos Protocol of 1993
relating to the Torremolinos International Convention
for the Safety of Fishing Vessels, 1977**

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof, in conjunction with Article 218(5), 218(6)(a)(v) and the first subparagraph of Article 218(8) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ OJ C ..., ..., p.

Whereas:

- (1) It is necessary that action by the Union in the sector of maritime transport aim to improve maritime safety.
- (2) The Torremolinos Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the "Torremolinos Protocol") was adopted on 2 April 1993.
- (3) Council Directive 97/70/EC¹ lays down safety standards, based on the Torremolinos Protocol, for fishing vessels of 24 metres in length and over while taking, as far as necessary, full account of regional and local circumstances.
- (4) The Torremolinos Protocol has not entered into force because the necessary minimum requirements in terms of ratification have not been achieved.

¹ Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over (OJ L 34, 9.2.1998, p. 1).

- (5) In order to establish, by common accord and under the auspices of the International Maritime Organization (IMO), the highest practicable standards for the safety of fishing vessels that can be implemented by all the States concerned, the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing vessels, 1977 ("the Agreement") was adopted on 11 October 2012. The Agreement is open for signature from 11 February 2013 to 10 February 2014, and thereafter remains open for accession.
- (6) The provisions of the Agreement fall under the exclusive competence of the Union concerning the safety regime of fishing vessels of 24 metres in length and over.
- (7) The Union cannot become a party to the Agreement, as only states can be parties thereto.
- (8) It is in the interests of maritime safety and fair competition that the Agreement be ratified or acceded to by Member States having fishing vessels flying their flag which fall within the scope of application of the Agreement, and which operate in their internal waters or territorial sea, or which land catch in their port, to ensure the entry into force of the provisions of the Torremolinos Protocol. Furthermore, the entry into force of the Agreement will allow the subsequent updating, through submissions to the IMO, of a number of provisions in the Torremolinos Protocol which have become obsolete following the adoption of Directive 97/70/EC.

- (9) In accordance with Article 2(1) of the Treaty, the Council should therefore authorise Member States having fishing vessels flying their flag which fall within the scope of application of the Agreement, and which operate in their internal waters or territorial sea, or which land catch in their port, to sign and ratify the Agreement or accede to it in the interests of the Union. However, in order to safeguard the current safety levels provided for in Directive 97/70/EC, Member States should, when signing the Agreement and depositing their instruments of ratification or accession, issue a declaration to the effect that the exemptions provided for in Regulations 1(6) and 3(3) of Chapter 1 of the Annex to the Agreement, in relation to annual surveys and a common fishing zone or exclusive economic zone respectively are not to apply. Furthermore, that declaration should state that third country fishing vessels of 24 meters in length and over operating in the territorial or internal waters of Member States, or landing catch at their ports, are subject to the safety standards laid down in Directive 97/70/EC and that the exemptions provided for in Regulation 3(3) of Chapter 1 of the Annex to the Agreement will not be accepted in relation to such third country fishing vessels,

HAS ADOPTED THIS DECISION:

Article 1

Member States are hereby authorised to sign, sign and ratify, or accede to, as appropriate, the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

Article 2

Member States shall endeavour to take the necessary steps to deposit their instruments of ratification of, or accession to, the Agreement with the Secretary-General of the International Maritime Organization within a reasonable time and, if possible, no later than two years from the date of entry into force of this Decision.

When a Member State signs, ratifies or accedes to the Agreement, it shall also deposit the Declaration set out in the Annex to this Decision.

Article 3

This Decision is addressed to the Member States.

Done at ...,

For the Council

The President

ANNEX

DECLARATION TO BE DEPOSITED BY THE MEMBER STATES UPON SIGNATURE,
RATIFICATION OR ACCESSION TO THE CAPE TOWN AGREEMENT OF 2012 ON THE
IMPLEMENTATION OF THE PROVISIONS OF THE TORREMOLINOS PROTOCOL OF 1993
RELATING TO THE TORREMOLINOS INTERNATIONAL CONVENTION FOR THE
SAFETY OF FISHING VESSELS, 1977

As part of a regional arrangement authorised under Article 3(5) of the Torremolinos Protocol, [*insert the name of the Member State*] is bound by relevant European Union legislation, namely Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over¹. Consequently [*insert the name of the Member State*] will apply the provisions of the Torremolinos Protocol regarding safety standards to third country fishing vessels of 24 metres in length and over which operate in its internal or territorial waters or which land catch in one of its ports, subject to the terms laid down in the abovementioned Directive.

Under that regional arrangement, the exemptions provided for in Regulation 1(6) of Chapter I of the Annex to the Cape Town Agreement in relation to annual surveys and in Regulation 3(3) of Chapter I of the Annex thereto concerning a common fishing zone or exclusive economic zone shall not apply to the fishing vessels of the Member State, and to third country fishing vessels of 24 meters in length and over while operating in the depositing Member State's common fishing zone, exclusive economic zone, or landing catch at its ports. Exemptions issued under Regulation 3(3) of Chapter I of the Annex to the Cape Town Agreement, concerning a common fishing zone or an exclusive economic zone, to fishing vessels falling within the scope of application of Regulation 1 of Chapter I of the Annex to the Cape Town Agreement, shall not be accepted.

¹ OJ EU L 34, 9.2.1998, p. 1.