



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 12 March 2014
(OR. en)**

7582/14

**Interinstitutional File:
2014/0078 (NLE)**

PECHE 134

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	10 March 2014
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

No. Cion doc.:	COM(2014) 138 final
Subject:	Proposal for a Council Decision on the signing, on behalf of the European Union, and on the provisional application of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union.

Delegations will find attached document COM(2014) 138 final.

Encl.: COM(2014) 138 final



EUROPEAN
COMMISSION

Brussels, 10.3.2014
COM(2014) 138 final

2014/0078 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and on the provisional application of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

In the course of the negotiations for a new protocol to the EU-Seychelles Fisheries Partnership Agreement, held in May 2013, the Seychelles raised the need of negotiating an access agreement for Seychelles flagged vessels to the waters of Mayotte, which will fall under the jurisdiction of the EU from 1 January 2014. This would enable Seychelles flagged vessels to continue to have access to Mayotte waters from 1 January 2014.

Seychelles flagged vessels can currently fish in Mayotte waters on the basis of an agreement between the Prefet de Mayotte and the Seychelles flagged vessels owners. To date an average of 8 Seychelles purse-seine vessels have operated in Mayotte waters under the private agreement, which foresees the vessels paying a licence fee directly to Mayotte.

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

This agreement is of strategic importance for the Seychelles fleet given the migratory nature of the tuna resource. It will also further underline and strengthen our relationship with the Seychelles. This Agreement supplements and mirrors the existing Agreement that we have for EU vessels to have access to resources in Seychelles' waters, thereby reinforcing the political signal being given to the Seychelles as our most important partner in the region.

Therefore it is in the interest of the EU to sign, provisionally apply and conclude this agreement with the Seychelles.

3. LEGAL ELEMENTS OF THE PROPOSAL

The European Council adopted on 11 July 2012, a Decision amending the status of Mayotte so that it can become an outermost region on 1 January 2014 (OJ L 204 of 31.7.2012), rather than holding the current status of overseas country or territory. As a consequence, the current EEZ of Mayotte will as of 1 January 2014, become EU waters.

A mandate for the Commission to undertake these negotiations was agreed on 14 October and negotiations were held with the Seychelles shortly following this and concluded on 15 November 2013.

4. BUDGETARY IMPLICATION

As this is in relation to access of fishing vessels flying the flag of the Seychelles to waters falling under EU jurisdiction, there are no financial implications by way of expenditure on the EU budget.

5. OPTIONAL ELEMENTS

This agreement foresees access to a limited number of vessels for a period of six years to the Mayotte waters which will fall under the jurisdiction of the EU from 1 January 2014. This reflects the current opportunities offered through the current Mayotte agreement with the shipowners. These opportunities would follow the guidance of the IOTC scientific advice regarding capacity and the conservation of the resources.

For this access Seychelles vessel owners will have to pay for a fishing authorisation. The fees for these authorisations would reflect the total rates that were recently agreed with the Seychelles in the new Protocol to the FPA between the EU and Seychelles. The payment of the licences would be the only financial compensation to be foreseen under this new Agreement and will be paid directly to Mayotte to enable it to develop its management and control capacity as well as developing fisheries governance and capacity building. There would be no financial implication on the Seychelles Government.

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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, in conjunction with Article 218(5) thereof,

Having regard to the proposal from the Commission¹,

Whereas:

- (1) The European Council adopted Decision (2012/419/EU) of 11 July 2012² amending, with the effect from 1 January 2014, the status of Mayotte with regard to the European Union,
- (2) The Council authorised the Commission to negotiate, on behalf of the European Union, an Agreement with the Republic of the Seychelles relating to the access, for fishing vessels flying the flag of the Republic of Seychelles, to waters and marine biological resources of the European Union, namely in the exclusive economic zone off the coast of Mayotte.
- (3) As a result of those negotiations, a new Agreement was initialled on 15 November 2013.
- (4) It is in the interest of the Union to implement the Agreement in the fisheries sector with the Republic of the Seychelles, setting out the fishing opportunities for the Seychelles and defining the conditions to promoting responsible fishing and sustainable fisheries in the waters of Mayotte, under the jurisdiction of the European Union. It is therefore appropriate to approve the Agreement on behalf of the Union.

¹ OJ C , , p.

² OJ L 204 of 31.7.2012

- (5) The Agreement has established in its Article 8, a Joint Committee responsible for monitoring the application of the Agreement. Furthermore, in accordance with the Agreement, the Joint Committee may approve certain modifications to the Agreement. In order to facilitate the approval of such modifications, it is appropriate to empower the European Commission, subject to specific conditions, to approve them under a simplified procedure.
- (6) In order for the authorities in Mayotte to implement the rules of the common fisheries policy, from the date on which Mayotte becomes an outermost region, it is necessary to set in place the appropriate administrative framework, control activities, physical infrastructure and provide the appropriate capacity building. This will also assist in the requirement to comply with the international reporting obligations of the Union. Therefore, the necessary financial means should be provided to the fisheries authorities in Mayotte through the use of the funding provided through the shipowners fees to be paid directly to Mayotte.
- (7) The fishing fleet flagged in Seychelles has operated in the Mayotte waters over several years through an arrangement between Mayotte and the vessel shipowners, whereby the shipowners paid a licence fee to Mayotte to fish in its waters. As a result, a strong relationship has developed between the Seychelles fleet and the local community of the French outermost region of Mayotte. Therefore, to maintain this continuity of fishing operations and subsequent benefits to Mayotte it is appropriate that all payments related to authorisations and catches under this agreement benefit directly the local community in Mayotte.
- (8) Therefore the new Agreement should be signed on behalf of the Union, subject to its conclusion.
- (9) In order to guarantee the continuation of fishing activities by European Union vessels, the new Agreement should be applied provisionally from the date of signature of the Agreement by both Parties,

HAS ADOPTED THIS DECISION:

Article 1

The signing of the Agreement setting out the fishing opportunities and the financial contribution provided for by the Agreement between the European Union and the Republic of Seychelles is hereby approved on behalf of the Union, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

1. France shall be empowered to collect, for the account of its outermost region Mayotte, the payments related to authorisations and catches and other fees due by operators of Seychelles vessels in consideration of the granting of access to fisheries within EU waters around Mayotte in accordance with the provisions of Chapter III, Section 1, paragraphs 8 and 9 and Section 2 of the Annex of the Agreement. These receipts shall be used by France for the setting in place of the appropriate administrative framework, control activities, physical infrastructure and provide the appropriate capacity building in order for the administration in Mayotte to meet the requirements of the CFP.
2. Details of that bank account shall be provided to the Commission by France.
3. At the end of each year of implementation of this agreement, France shall send to the Commission a detailed report on the payments made by the vessels authorised to fish and the utilization of these payments.

Article 3

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 4

The Agreement shall be applied provisionally from the date of signature of the Agreement by both Parties, pending its entry into force.

Article 5

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

Done at Brussels,

*For the Council
The President*