



Council of the  
European Union

Brussels, 10 December 2014  
(OR. en)

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**Interinstitutional Files:**

2014/0328 (NLE)  
2014/0330 (NLE)  
2014/0329 (NLE)

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16329/14  
ADD 1 REV 1

PECHE 570

**"I/A" ITEM NOTE**

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From: General Secretariat of the Council

To: Permanent Representatives Committee (Part 1)/Council

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No. prev. doc.: 15521/14 PECHE 531 + ADD1 (notification) - COM(2014) 696 final  
15522/14 PECHE 532 - COM(2014) 697 final  
15523/14 PECHE 533 + ADD1 and 2 - COM(2014) 695 final

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Subject: 1) Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Cape Verde  
- adoption

2) Proposal for a COUNCIL REGULATION on the allocation of fishing opportunities under the Protocol setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Republic of Cape Verde  
- adoption

3) Proposal for a COUNCIL DECISION on the conclusion of the Protocol setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Republic of Cape Verde  
- request for the consent of the European Parliament

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## Statement by the Commission

By its judgement of 24 November 2014 on the joined cases C-103/12 and C-165/12 (European Parliament and the Commission v. Council), the Court of Justice annulled the Council Decision 2012/19/EU of 16 December 2010 on the Declaration on the granting of fishing opportunities in EU waters to Venezuelan fishing vessels in the exclusive economic zone off the coast of French Guiana, the Court of Justice clearly confirmed that decisions relating to the conclusion of external fisheries agreements fall fully within the scope of Article 43(2) TFEU (in conjunction with the applicable procedure of Article 218 TFEU, i.e. Article 218(6)a(v) for the decisions on the conclusion) and rejected the position that such decisions could fall within the scope of Article 43(3) TFEU.

Therefore, in relation to the decision on the conclusion of the Protocol to the Sustainable Fisheries Partnership Agreement with the Republic of Cape Verde, the Commission regrets the Council's amendment replacing the legal basis of Article 43(2) in conjunction with Article 218(6)a TFEU with article 43 (without mentioning the paragraph) in conjunction with article 218(6)a TFEU.

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