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PECHE 103

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	23 March 2016
To:	Mr Jeppe TRANSHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2016) 145 final
Subject:	Proposal for a COUNCIL REGULATION concerning the allocation of fishing opportunities under the Implementation Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

Delegations will find attached document COM(2016) 145 final.

Encl.: COM(2016) 145 final



EUROPEAN
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2016/0078 (NLE)

Proposal for a

COUNCIL REGULATION

concerning the allocation of fishing opportunities under the Implementation Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On the basis of the relevant negotiating directives¹, the Commission conducted negotiations with the Government of the Cook Islands with a view to concluding a new Sustainable Fisheries Partnership Agreement and an Implementation Protocol thereto between the European Union and the Cook Islands. Following these negotiations, a new Agreement and Protocol were initiated on 21 October 2015. They cover a period of eight years and four years respectively from the date of their provisional application, i.e. from the date of their signature, as laid down in Article 16 of the Agreement and Article 12 of the Protocol.

The new Agreement will provide for a framework taking into account the priorities of the reformed Common Fisheries Policy and its external dimension, with a view to establishing a strategic partnership between the European Union and the Cook Islands.

The main objective of the new Protocol is to provide fishing opportunities to Union vessels in the Cook Islands fishing zone, on the basis of the best available scientific advice and respecting the conservation and management measures of the Western and Central Pacific Fisheries Commission (WCPFC) where applicable within the limits of the available surplus. The Commission based its position in part on the results of a forward-looking assessment, carried out by external experts, of whether a new Agreement and Protocol should be concluded. The aim is also to enhance cooperation between the European Union and the Cook Islands to promote a sustainable fisheries policy and sound exploitation of fisheries resources in the Cook Islands' fishing zone, in the interests of both parties.

The Protocol provides for fishing opportunities for 4 tuna seiners.

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

The Commission accordingly proposes that the Council adopt this Regulation.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

In accordance with Article 3(1d) of the Treaty on the Functioning of the European Union (TFEU), the conservation of marine biological resources falls under the exclusive competence of the European Union. The subsidiarity principle does not apply as Member States are not entitled to negotiate fisheries agreements with third countries.

The legal basis for the proposed Council Regulation concerning the allocation of fishing opportunities under the Implementation Protocol to the new Agreement is Article 43(3) TFEU.

¹ Adopted by the 3253rd meeting of the Council (Agriculture and Fisheries) on 15 July 2013.

This procedure is being carried out in parallel with the procedures relating to the Council Decision authorising the signing, on behalf of the European Union, and provisional application of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the Implementation Protocol thereto, and to the Council Decision on the conclusion, with the consent of the European Parliament, of the said Agreement and Implementation Protocol thereto.

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

The interested parties were consulted during the ex-ante evaluation on a possible Sustainable Fisheries Partnership Agreement and Protocol between the European Union and the Cook Islands. The evaluation report has been published in its entirety on the European Commission's Europa website. Experts from the Member States and industry were also consulted in technical meetings. The evaluation and these consultations led to the conclusion that it would be beneficial for the EU and the Cook Islands to conclude a new Sustainable Fisheries Partnership Agreement and Implementation Protocol thereto.

In accordance with the reformed Common Fisheries Policy, the Agreement includes a provision concerning the respect for human rights, democratic principles and the rule of law (Article 3, paragraph 4). The Agreement and the Implementation Protocol thereto also provide for the possibility of their suspension (Articles 13 and 6 respectively) or termination (Articles 14 and 7 respectively) in the event of a breach by either one of the Parties of the respect for human rights.

4. BUDGETARY IMPLICATIONS

The annual financial contribution is EUR 735 000 for the first and the second year, and EUR 700 000 for the third and fourth year, on the basis of:

(a) a reference tonnage of 7 000 tonnes, for which an amount linked to access has been set at EUR 385 000 for the first and the second year, and EUR 350 000 for the third and fourth year; and

(b) support for development of the sectoral fisheries policy of the Cook Islands, amounting to EUR 350 000 for the first, second, third and fourth years. This support meets the objectives of the national fisheries policy and in particular the Cook Islands' needs in relation to scientific research, artisanal fisheries as well as fisheries monitoring, control and surveillance and the fight against illegal fishing.

Proposal for a

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concerning the allocation of fishing opportunities under the Implementation Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

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 21 October 2015 the European Union and the Cook Islands initialled a Sustainable Fisheries Partnership Agreement (hereinafter referred to as ‘the Agreement’) and an Implementation Protocol thereto, granting Union vessels fishing opportunities in the waters over which the Cook Islands has sovereignty or jurisdiction in respect of fisheries.
- (2) On [...] the Council adopted Decision 2016/.../EU² on the signature and provisional application of the Agreement and the Implementation 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) Article 10(1) of Council Regulation (EC) No 1006/2008³ provides that the Commission must inform the Member States concerned if it transpires that the fishing opportunities allocated to the Union under the Protocol are not fully utilised. If no reply is received within a deadline to be set by the Council, this will 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,

² OJ L of , p. .

³ 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 waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94 (OJ L 286, 29.10.2008, p. 33).

HAS ADOPTED THIS REGULATION:

Article 1

- (1) The fishing opportunities set out in the Implementation Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Cook Islands (hereinafter referred to as ‘the Protocol’) shall be allocated among the Member States as follows:

Tuna purse seiners:

Spain:	3	vessels
France:	1	vessel

- (2) Regulation (EC) No 1006/2008 applies without prejudice to the Agreement.
- (3) If applications for fishing authorisations from the Member States referred to in paragraph 1 do not exhaust the fishing opportunities set out in the Protocol, the Commission shall consider applications for fishing authorisations from any other Member State in accordance with Article 10 of Regulation (EC) No 1006/2008.
- (4) The time limit within which the Member States must confirm that they are not fully utilising the fishing opportunities granted to them under the Protocol, as provided by Article 10(1) of Regulation (EC) No 1006/2008, is set at ten working days as from the date on which the Commission communicates this information to them.

Article 2

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

It shall apply from the date of signature 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*