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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EVALUATION
Accompanying the document Recommendation for the COUNCIL
DECISION authorising the opening of negotiations with Madagascar for the
conclusion of a Sustainable Fisheries Partnership Agreement and a
Protocol between the European Communities and Madagascar

Delegations will find attached document SWD(2018) 143 final.

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COMMISSION STAFF WORKING DOCUMENT

EVALUATION

Accompanying the document

Recommendation for the

COUNCIL DECISION

authorising the opening of negotiations with Madagascar for the conclusion of a Sustainable Fisheries Partnership Agreement and a Protocol between the European Communities and Madagascar

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1. INTRODUCTION

Purpose and scope

Bilateral sustainable fisheries agreements (hereafter - SFPAs) between the EU and third countries are covered by the Common Fisheries Policy (CFP) regulation¹. SFPAs help to implement the CFP objectives internationally, ensuring that fishing activities of the EU fleet outside Union waters are based on the same principles and standards as those applied in EU waters. SFPAs are based on the principles of sustainability and best available scientific advice, transparency, non-discrimination, solidarity through partnership. All in all, SFPAs contribute to the establishment of a governance framework for external fishing activities². Furthermore, the EU commitment to promote ocean governance at a global level should be incorporated in newly negotiated SFPAs.

The Council Conclusions on the external dimension of the Common Fisheries Policy adopted on 19 March 2012, calls for an ex-post and ex-ante evaluation to be carried out by the Commission before negotiating a new protocol³. This stems from Article 31(10) of the CFP Basic Regulation. Ex-ante and ex-post valuation studies aim to inform decision makers, before the negotiation directives by the Council are adopted.

This staff working document (SWD) presents the results of an ex-post and ex-ante evaluation of the current Protocol (2015-2018) between the European Union and Madagascar, which will expire on 31 December 2018. The study covered the period from the entry into force of the Protocol (1st January 2015) to the end of 2017. The ex-post evaluation is made on the basis of assessment criteria: efficiency, economy, coherence, relevance, EU added value and acceptability. For the ex-ante analysis, the questions focus on the lessons learned, benefits of the new Protocol, available options (renewal or non-renewal of the Protocol) and the associated risks, and the added value for the EU.

2. BACKGROUND TO THE INTERVENTION

Description of the intervention and its objectives

To explain the logic of this intervention, it is important to explain the rationale of SFPAs. SFPAs consist of 3 major parts: Agreement, Protocol and Technical Annexes. While once negotiated SFPA Agreements are automatically extended, the Protocols have to be renegotiated before their expiry. SFPAs are rendered operational through implementation Protocols that contain Technical Annexes. It is for this reason that the evaluation study is needed (as explained in the introduction), in order to decide whether it is beneficial or not renewing the Protocol and, if so, under which conditions.

EU concludes fisheries partnership agreements with third countries to enable the EU fleet to fish surplus resources in the exclusive economic zone (EEZ) of partner countries (in this case - Madagascar), in a legally regulated environment and in exchange for a financial contribution by the EU and ship-owners. The EU contribution is made up of two separate components: 1) EU access fee that gives access for the EU fleet to fisheries resources of a partner country; and 2) EU sectorial support devoted to development of the

¹ Regulation (EU) 1380/2013 of 11 December 2013 the Common Fisheries Policy (OJ L354, 28.12.2013, p. 22);

² Overview of SFPA: http://ec.europa.eu/fisheries/cfp/international/agreements_fr;

³ Doc. 7086/12 PECHÉ 66.

fisheries sector in partner countries. The public contribution is complemented by contributions paid by EU vessel owners.

Each SFPA is an exclusive agreement: once in place, Union vessels may fish under this SFPA, and may not enter into private agreements with the partner country. The SFPA ensures a level-playing field and establishes minimum standards for sustainable resource management as it includes provisions prohibiting the granting of more favourable conditions to other foreign fleets. The implementation of the Agreement and the Protocol is managed by a Joint Committee, composed of representatives of both parties.

The EU and Madagascar concluded a bilateral Fisheries Partnership Agreement (FPA) in 2007⁴. This Agreement provided fishing possibilities exclusively for highly migratory species for EU vessels fishing in Madagascar waters. It entered into force in 2007 and has been tacitly renewed twice for periods of 6 years. The current Protocol allows the access for a maximum of 94 EU tuna vessels to the fishing zone of Madagascar (40 purse seiners, 32 surface longliners > 100 GT⁵ and 22 surface long-liners < 100 GT) in exchange for an annual EU contribution of: EUR 1 566 250 the first two years (of which EUR 866 250 in return for access and EUR 700 000 to support the implementation of the national policy of sustainable fisheries) and 1 487 500 EUR for the third and fourth year (out of which 787 500 EUR for access and 700 000 for sectoral support). Fishing opportunities are distributed among EU ship-owners from four Member States⁶. Access for EU support vessels is also foreseen. EU ship-owners beneficiaries of fishing opportunities pay an access fee comprising a fixed and a variable part. The Protocol provides for a gradual increase in price paid for each tonne caught (from EUR 115 / tonne to EUR 120 / tonne), as well as an increase in the relative share of this price borne by the private sector beneficiary of the fishing opportunities negotiated.

In total, Madagascar received approximately EUR 1.6 million on average per year from the EU in exchange for access (not including sectoral support payments) comprising 54% paid from the EU budget and 46% paid by EU ship-owners. With sectoral support payments, total receipts for Madagascar amounted to EUR 2.3 million on average per year.

The negotiation of the new Protocol will imply the re-evaluation of various components of the protocol, such as reference tonnage, financial compensation (EU and ship-owners), fishing possibilities as well as numerous technical conditions (embarking of seamen and observers; fishing limits for sharks; declaration of catches; landings in Madagascar; support vessels). As far as the bilateral cooperation for strengthening Madagascar's capacities on the sustainable management of the Fisheries sector, it is important that the sectoral support continue to focus some of its resources on capacity building in monitoring, control and surveillance activities and also include new elements if necessary (for ex. Blue Growth pillar which might be included in the new EU protocol, as it is the case in Mauritius). In this light, the sectorial support contribution paid by the EU will also have to be reassessed.

Important to note, that bilateral cooperation between EU and Madagascar should be looked in a larger context, looking for synergies in all the actions undertaken under other SFPA or in the framework of regional cooperation. DG MARE works in close cooperation with other Commission services (DEVCO, TRADE, SANTE, ENV) and with EEAS in order to ensure synergies in actions undertaken by different services.

⁴ Adopted by xxxxxx (OJ L331, 17.12.2007, p. 7)

⁵ GT : Gross tonnage

⁶ France, Portugal, Spain, Italy.

Synergies are also sought with other financial donors (World Bank in particular) in the region, in order to avoid double financing, and ensure maximum benefits to Madagascar.

3. IMPLEMENTATION/STATE OF PLAY

As regards the state of play of the implementation of the Protocol, a number of areas are identified that reflect what the situation was like before the intervention started, how it was expected to develop and other relevant points of comparison.

Utilisation of fishing opportunities. Utilisation of fishing opportunities has been medium over the 2015-2017 period (54%), with a total of 51 EU tuna vessels taking fishing authorisations, compared to a maximum of 94. However, access to the Malagasy fishing zone appears to be important for the EU fleet with 90% of the EU tuna purse seine fleet active in the Indian Ocean having drawn fishing authorisations and almost 100% of the La Réunion-based surface long-liners of less than 100 GT. For EU surface long-liners of more than 100 GT, the percentage of the active fleet having drawn fishing authorisations is close to 50%.

Regardless of the type of EU tuna vessel concerned, there is a need for stable access agreements for multi-annual periods, thus allowing ships to be able to predict their regional fishery strategies over several seasons. However, the fishing opportunities in the new protocol should reflect the reality and historical uptake of licences, which suggest some reduction, notably for surface long-liners of more than 100 GT. On the reverse, fishing opportunities for smaller long-liners should take into account possible developments of the fishing fleet in the region and those for seiners should remain stable.

Catches and their reporting. Catches by EU tuna vessels over the first three years of the Protocol were around 8,000 tonnes per year on average. As could be expected from the migratory nature of the resource targeted, EU catches varied between 5,280 tonnes (2015) and 10,314 tonnes (2017 – provisional data). Average catches obtained represented 50% of the 15,750 tonnes reference tonnage fixed by the Protocol to set the value of the EU.

The reference tonnage in the new Protocol should therefore reflect historical catches, although taking into account the growing trend of catches the recent years and other factors such as shark fishing, the absence of active protocol with Comoros and Mozambique and the dynamics of the EU fleet in the Western Indian Ocean.

Regarding the reporting of catches, the new Protocol will make sure that through installed ERS system under the current protocol, Madagascar authorities will receive catches from the EU fleet on the daily basis.

Scientific cooperation. The Protocol foresees that EU and Malagasy authorities should monitor the evolution of catches, the fishing effort and the state of targeted fishery resources, and to improve data collection and its analysis. Scientific cooperation between the two parties is carried out in the multilateral framework of IOTC: the application and follow-up of measures for tuna vessels foreseen in both EU regulations and IOTC resolutions, make it possible to feed the IOTC scientific databases. In addition, the sectoral support allows a better implication of the Malagasy authorities (participation in meetings, submission of mandatory data) in this multilateral framework of management, which is a valuable contribution to the scientific advice and the resulting management and conservation rules. Supported institutions, such as USTA⁷, consider Sector Support important for their operation, their development and for their participation in IOTC

⁷ Unité Statistique Thonière Antsiranana.

meetings. Therefore, the future Protocol should continue supporting the reinforcement of scientific cooperation between Madagascar and the EU scientists, possibly including a study for establishing a monitoring mechanism of sharks fishing aimed inter alia at collecting reliable timely data on shark catches.

Support vessels. With regard to support vessels contributing to the fishing effort of EU tuna seiners, a future Protocol may incorporate the measures recently adopted by IOTC concerning the limitation of the number of support vessels adopted by the Resolution No 17/0155 by regulating access to fishing zone of Madagascar on the same basis.

Landings. Landings at the port of Antsiranana by EU tuna seiners occur during the fishing season in the Mozambique Channel. This contributes to support fisheries-related activities at Madagascar (bunkering, canning, shipyard). On the reverse, for the surface longliners, there are no interactions for logistic reasons. The future protocol could take into consideration the simplification of administrative procedures to make effective the landing incentives foreseen under the current protocol.

Embarking of seamen. The embarkation of Malagasy seamen provisions were correctly applied by EU ship-owners. National seamen are a welcome resource that EU ship-owners are looking for. The provisions of the current Protocol may therefore be maintained. However, some clarification on conditions of seamen embarkement on small long-liners, should be provided to avoid possible misunderstanding on the application of these clauses in the future.

Inspections at sea. Partnership with the EU is particularly important to strengthen the fight against Illegal, unregulated and unreported fishing (IUU). The future Protocol should maintain a concentration of some of the resources of the sectoral support for monitoring, control and surveillance and ensure the complementarity of national inspection activities with actions carried out at regional level to which Madagascar is actively participating.

Embarking of observers. The tuna vessels have generally complied with the monitoring conditions (satellite tracking, logbooks) and have embarked Malagasy observers, sometimes beyond the minimum requirements. Malagasy scientific observers have been embarked onto EU tuna seiners within the framework of the regional observers program implemented by IOC (Indian Ocean Commission) with EU support. The quality of the monitoring data should be soon improved through the implementation of an electronic system (Electronic Reporting System - ERS). EU tuna purse seiners go also beyond the IOTC minimum requirements in terms of observers coverage of their operations. The future protocol should maintain the current provisions in this area.

Sectoral support. Sectoral support under current protocol has particularly focused on strengthening monitoring and surveillance axis and other important areas (such as research and science, sanitary issues, small scale fisheries). The new protocol should further strengthen these axis of intervention.

Blue growth / Ocean Governance. The current Protocol has no reference to Blue Growth/ Ocean Governance axis that took much importance since few years for the EU, and across the world. Madagascar is in the process of preparing a blue growth strategy in collaboration with FAO. Similarly to what has recently being agreed for other SFPAs (notably that with Mauritius) sectoral support could take into account some of the financing needs in this area.

3. METHODOLOGY

The evaluation study was conducted between November 2017 and February 2018, under the guidance of an inter-service Steering Group and within the general framework of the Terms of Reference. The methodology used in the evaluation included analysis of documentation and data available, and consultation of Madagascar and EU stakeholders. (more information in Annex 2 of this document).

The preparation of the evaluation report took into account the guidelines recommended by the EU, including the "Toolbox" on evaluation, in particular on how to assess the impacts on third countries, and the methodological elements specific to the external dimension of the CFP, such as those concerning the methods of assessment of the socio-economic benefits of fisheries agreements.

All in all, the contractor respected all the requirements set by the Steering group, and all the meetings were held without delay. There was a very constructive communication between the Steering group and the contractor along the whole evaluation process, and the cooperation was mutually much appreciated.

4. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

The 2015-2018 Protocol to the SFPAs between the EU and Madagascar generally meets the minimum conditions of effectiveness, efficiency, economy relevance, coherence, acceptability for EU interventions. The Protocol can be broadly described as a win-win agreement in that it addresses the identified needs of the different stakeholders.

Effectiveness. The 2015-2018 Protocol is evaluated as effective in terms of its objective of contributing towards sustainable exploitation of fisheries resources in the waters of Madagascar. The Protocol is consistent with the conservation and management measure adopted under the multilateral framework of the IOTC to which the EU and Madagascar are parties. The Protocol implemented monitoring measures of EU fleet activities which produced scientific data. The Protocol succeeded in strengthening Malagasy monitoring, control and surveillance capacities. However, further improvements are needed in terms of timely collection and analysis of logbooks submitted by non-EU tuna vessels to ensure that all vessels are treated and monitored equally, as required by the Protocol. In addition, monitoring mechanisms of shark catches by EU vessels could not prevent exceeding the catch limit set by the Protocol. Although the latter have not direct impact on the conservation measures set globally at the level of IOTC, this issue could be addressed in the future through a specific study financed by the sectoral support.

The Protocol is also evaluated as broadly effective in relation to its objective of protecting the interests of the EU long distance fleet. Concerning tuna purse seiners, the Protocol provides access to an important fishing zone in the Western Indian Ocean, with interest reinforced by the absence of applicable SFPAs with neighbouring coastal States (Comoros, Mozambique). Concerning surface long-liners based in La Réunion, the Protocol supports enlargement of the fleet's operational range and hence a better distribution of fishing effort. As far as can be verified given the lack of updated information available, technical and financial conditions imposed on EU tuna vessels are broadly equivalent to those imposed on non-EU tuna vessels. The Protocol is broadly effective in relation to its objective of contributing to the development of the fisheries sector in Madagascar. Through its sectoral support component, the Protocol contributed to capacity building for monitoring, control and surveillance, and for sanitary controls during a period when the national budget was limited. Interactions between EU tuna purse seiners and enterprises of the Anstiranana tuna cluster supported the creation of positive economic and social impacts for the country. Employment of Malagasy seamen

and observers on board all EU tuna fleet segments concerned by the Protocol also contributed to job creation.

Efficiency. The Protocol is evaluated as efficient with positive returns on investment for the EU in relation to access payments, even if the reference tonnage has not been reached. Sectoral support funding appears to be aligned with Malagasy absorption capacity based on the satisfactory execution rate of measures, which has triggered payments of 100% of foreseen tranches so far. Sectoral support economy has been improved by a new payment mechanism of sectoral support envelopes directly into an account managed by the Agence Malgache de la Pêche et de l'Aquaculture (AMPA).

Economy. The sectoral support of the current Protocol needs have in general been well estimated by the Joint Committee. The EU has disbursed the sectoral support financial contributions in a timely manner and consistent with the Protocol, reflecting the rhythm of its implementation and reporting, and consistently with the Protocol.

Relevance. The Protocol remains relevant to the objectives of the SFPA and to Madagascar's sector management and sustainable development plans. The Protocol is also relevant to the objectives of IOTC and contributes to a network of SFPAs in the region. The Protocol is relevant for most of the stakeholders concerned. For EU ship-owners, the Protocol provides access to the Malagasy fishing zone. For Madagascar, the Protocol supports economic benefits from tuna resources present in the EEZ that the national fleet cannot exploit. The Protocol also provides funds for the improvement of the governance of the sector in key areas like fisheries surveillance, small scale fisheries and sanitary controls. For the EU, the Protocol reinforces the South-Western Indian Ocean network of tuna agreements which provides opportunities to coherently implement IOTC resolutions, by providing at the same time a clear legal framework for the governance of the EU distant fleet activities and the partnership with Madagascar.

Coherence. The Protocol is consistent with the CFP and the objectives of IOTC. It also helps maintain a coherent network of tuna agreements in the region. The Protocol is consistent with other EU initiatives and the policies of international donors and contributes to their effectiveness. It is coherent with other EU interventions in the South-Western Indian Ocean, in particular those aimed at improving fisheries governance and the fight against IUU fishing. The Protocol supports interventions at national level that complement EU interventions under national and regional EDF programmes, in particular the SMARTFISH programme (to be closed mid-April 2018) and its successor - ECOFish - being prepared under the 11th EDF. The Protocol is also coherent with other EU initiatives in favour of its outermost regions.

The Protocol contributes to achieving the priorities identified by the Malagasy strategic framework for the fishery sector.

The EU added value. The added value of the EU intervention in the Protocol is clear, as the instrument supports implementation of an EU fleet management framework coherent with frameworks negotiated under other tuna agreements, while creating a platform for sectoral dialogue between the EU and Madagascar. The EU's financial contribution has contributed to strengthen the fisheries sector of Madagascar as a whole. Compared to a scenario where EU vessels negotiate individually with Madagascar for access, the EU's participation in the process has ensured that the Protocol promotes sustainability and includes conditions and objectives that are consistent with CFP & IOTC objectives.

Acceptability. The Protocol is broadly acceptable by EU stakeholders who support its renewal. For Malagasy authorities, the Protocol is also acceptable, and its renewal is supported. Some comments received by the Malagasy civil society suggest however that the visibility of the Protocol achievements should be improved by Malagasy authorities.

6. CONCLUSIONS

The contractor has fully addressed the evaluation questions and provided the Commission with concrete, reliable and credible results. On the basis of these observations, the contractor has drawn conclusions based on objective analysis and made specific and relevant recommendations for future negotiations on the new protocol between the EU and Madagascar.

Therefore, from all options considered the renewal of the Protocol at the end of its implementation period (31 December 2018) clearly appears as the preferred option. Any other option would not bring the same benefits, including the option of not renewing the Protocol. A future Protocol should retain a similar technical and financial approach with some technical adaptations aimed at improving the implementing conditions of its access and sectoral support components. The Protocol can be broadly described as a win-win agreement in that it addresses the identified needs of the different stakeholders.

The result of the evaluation and lessons learned from other similar interventions lead to the adoption of recommendations with a view to addressing issues that need to be considered and resolved in the future protocol.

With regard to access conditions, this concerns notably: i) maintaining EU fishing opportunities exclusively for highly migratory species and associated species; ii) alignment of fishing opportunities negotiated with levels reflecting EU tuna vessel activities in the South-West Indian Ocean; iii) introduction of mechanisms to regulate the number of support vessels that are aligned with those adopted by the IOTC; and iv) a scientific analysis of the relevance of a catch limit for sharks and identification of modified and appropriate management mechanisms.

Concerning the sectoral support component, it is recommended: i) continuation of capacity building actions for monitoring, control and surveillance, sanitary inspections, training of seamen and support to professionalisation of the artisanal sector; ii) clarification of the new sectoral support payment mechanisms aimed at ensuring a better traceability; and iii) close coordination between sectoral support actions, the EU interventions under national and regional EDF programmes (Smartfish and Eco-fish) and actions foreseen under the World Bank programme (SWIOFISH 2) which will support improvements in Malagasy fisheries governance over the 2017-2023 period.

Furthermore, a future sectoral support could also include support to the Malagasy Blue Growth strategy, should relevant needs be identified in sufficient detail at the time of the future negotiations.

To sum up, the Commission supports the conclusions of the assessment made by the contractor. The duration of a future Protocol should be at least four years (like the current Protocol).

Annex 1: Procedural information

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

Responsible DG: DG MARE – Maritime Affairs and Fisheries/PLAN/2017/1462

2. ORGANISATION AND TIMING

Works to be executed	Cumulative
Contract signature	9 November 2017
Inception Meeting	17 November 2017
Minutes of the Inception Meeting	20 November 2017
Submission of the initial report	5 December 2017
Comments on the initial report	11 July 2017
Meeting concerning the initial report	Exchange in writing with the Steering Committee
Minutes of the meeting concerning the initial report	Exchange in writing with the Steering Committee
Submission of the draft final report	29 January 2018
Meeting on the draft final report (presentation)	6 February 2018

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

The legal and procedural requirements for the preparation of the renewal of fisheries protocols lead to a tight schedule which prevents the holding of an open public consultation. Moreover, the impact of SFPA is relatively limited, as they focus on a small number of stakeholders. The consultation strategy excludes open public consultations.

4. CONSULTATION OF THE RSB (IF APPLICABLE)

The Contractor used data provided by DG MARE, DG DEVCO and EEAS, and the interviews with the authorities of Madagascar; EU Member States concerned; representatives or associations of tuna fishing ship-owners, NGOs and civil society.

5. EVIDENCE, SOURCES AND QUALITY

The evaluation process and the final evaluation report was subject to a quality assessment by the Steering Committee.

Annex 2: Stakeholder consultation

Questionnaire sent to stakeholders

- What is your view on the Protocols approved by the EU Council and the European Parliament?
- Are you generally satisfied with the way the European Commission has managed the fisheries agreement with Madagascar?
- Do you attend Joint Committee meetings? And why?
- If necessary, what would be the best ways to improve the functioning of joint committees?
- Do you have difficulties in the implementation of follow-up measures allocated to Member States in the context of these agreements?
- If the protocols were renewed in 2018, perhaps to change compared to the current Protocols?
- Do you have any other comments to make on the two fisheries agreements?

Background

In line with the implementation of the Commission guidelines and the better regulation ‘toolbox’, a consultation strategy was presented during the preparation of the negotiations for the renewal of protocols to the fisheries partnership agreements (SFPAs). The strategy has had to define the best means of achieving relevant stakeholders both in the EU and in the partner country concerned.

Objectives

The aim of the consultation:

1. To obtain stakeholders’ views on the implementation of the previous protocol or ongoing, as well as on the possible renewal of the protocol, including the different options;
2. To use the results of this consultation in the evaluation report (working document to be developed by Commission services following the evaluation study will be prepared by an external contractor before the opening of negotiations).

Approach to consultation of stakeholders

The main stakeholders concerned with the Protocol, which have been consulted in the form of maintenance or through the form sent, are as follows: 1) Member States flag ships beneficiaries (Spain, France, Portugal); 2) representatives or associations of ship-owners in the tuna beneficiaries of this Protocol; 3) non-governmental organisations (NGOs); 4) The partner country administrations; 5) representatives of the authorities; the private sector and civil society.

Detailed results of the stakeholder consultation

These results are presented in Annex 4 of the study.⁸

⁸ Etude d'évaluation:

Annex 3: Methods and analytical models

Economic analysis

A harmonised methodology has been developed for the economic analysis of the tuna fleets, which fish in the framework of SFPAs and RFMOs. The data used correspond to the data provided by EU Member States to the Contractor.

Science

The analysis of the scientific advice on the state of the stocks and the recommendations, was conducted focusing on the potential and the state of stocks of highly migratory species (tuna and associated species), with an emphasis on Malagasy EEZ. The evaluators did not carry out stock assessments, as such, but have used the latest available scientific advice on the state of the stocks and management measures, the most recent, adopted by the Indian Ocean Tuna Commission (IOTC) for the tuna stocks.

The data on the catches and fishing authorisations

The catch data for EU vessels used in the valuation were extracted from the database of the European Commission consolidated catch, which is updated by the Member States. The information concerning the fishing authorisations granted by Madagascar to EU vessels were extracted from the Commission database on fishing authorisations. For both catches and fishing authorisations, the 2014, 2015 and 2016 data are final, while the 2017 data are provisional.