



Council of the
European Union

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 July 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 541 final
Subject:	Recommendation for a COUNCIL DECISION to authorise the Commission to open negotiations on behalf of the European Union for the conclusion of a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia

Delegations will find attached document COM(2018) 541 final.

Encl.: COM(2018) 541 final



Brussels, 17.7.2018
COM(2018) 541 final

Recommendation for a

COUNCIL DECISION

to authorise the Commission to open negotiations on behalf of the European Union for the conclusion of a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Commission proposes to negotiate a Sustainable Fisheries Partnership Agreement with the Republic of The Gambia that meets the needs of the Union fleet and is in line with Regulation (EU) No1380/2013 on the Common Fisheries Policy and the 19 March 2012 Council Conclusions on a Communication from the Commission on the External dimension of the Common Fisheries Policy.

- **Consistency with existing provisions in the policy area**

There is an agreement between the European Union and the Republic of The Gambia dating back to 1987, when the two parties concluded a fisheries agreement approved by Council Regulation (EEC) No 1580/87 of 2 June 1987 concerning the conclusion of the Agreement between the European Economic Community and the Government of the Republic of The Gambia on fishing off The Gambia. This agreement was implemented by three successive protocols enabling Union vessels to access the fishing zone of The Gambia until June 1996, which marks the expiry date of the last implementing protocol. Since that date the agreement is deemed dormant.

The European Union already has a well developed network of bilateral SFPAs in western and central Africa, namely with Morocco, Mauritania, Senegal, Cabo Verde, Liberia, Ivory Coast and São Tomé and Príncipe.

SFPAs contribute to promote the objective of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law. In addition, SFPAs foster scientific cooperation between the EU and its partner, promote transparency and sustainability for a better management of fishing resources and encourage governance by supporting monitoring, control and surveillance of national and foreign fleets' activities while at the same time providing funding to fight against illegal, unreported and unregulated (IUU) fishing to contribute to the sustainable development of the local fishing industry.

SFPAs strengthen the European Union's position as a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the body set up under international law for conserving and managing highly migratory species in the region.

- **Consistency with other EU policies**

The negotiations on a SFPA and protocol with the Republic of The Gambia are in line with the EU's external action towards African, Caribbean and Pacific (ACP) countries.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the decision is provided by Article 218 of the Treaty on the Functioning of the European Union (TFEU), in Part Five on the Union's external action, Title V on international agreements, which sets out the procedure for negotiating and concluding agreements between the EU and third countries.

- **Subsidiarity (for non-exclusive competence)**

Not applicable, exclusive competence.

- **Proportionality**

The decision is proportional to the objective sought.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) and Article 218(4) of the TFEU.

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

- **Ex-post evaluation/fitness check of existing legislation**

The Commission carried out in 2017 an *ex-ante* evaluation of a possible SFPA with the Republic of The Gambia. The evaluation report concluded that the EU fishing sectors are firmly interested in fishing in The Gambia as part of their regional strategy and that an SFPA with The Gambia would help strengthen monitoring, control and surveillance and contribute to improved governance of the fisheries in the region. The Gambia has expressed its interest in opening negotiations with the EU on a possible SFPA.

- **Stakeholder consultations**

Consultations will take place in the framework of the Long Distance Advisory Council. *Ad hoc* meetings with Member States, industry representatives, and possibly NGOs are also envisaged.

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

Not applicable

- **Regulatory fitness and simplification**

Not applicable

- **Fundamental rights**

The negotiating directives proposed as an annex to the decision recommend to authorise the opening of negotiations including a clause allowing to suspend the Agreement and protocol in case of violations of human rights and democratic principles.

4. BUDGETARY IMPLICATIONS

The budgetary implications connected with the new SFPA and protocol will require the payment of a financial contribution to the Republic of The Gambia that is compatible with the Multiannual Financial Framework for 2014-2020, and in particular allocations to the budget line for Sustainable Fisheries Partnership Agreements. The annual amounts for commitments and payments are established in the yearly budgetary procedure, including the reserve line for protocols not entered into force in the beginning of the year.¹

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Negotiations are expected to open in the 3rd or 4th quarter of 2018.

- **Detailed explanation of the specific provisions of the proposal**

The Commission recommends that:

- The Council should authorise the Commission to open and conduct negotiations for the conclusion of a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia;

- The Commission should be nominated as the EU negotiator on this subject;

- The Commission should conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;

- The Council should approve the negotiating directives annexed to this recommendation.

¹ Chapter 40 (reserve line 40 02 41) in line with the MFF interinstitutional agreement ((2013/C 373/01).

Recommendation for a

COUNCIL DECISION

to authorise the Commission to open negotiations on behalf of the European Union for the conclusion of a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218 paragraphs 3 and 4,

Having regard to the recommendation from the Commission,

Whereas negotiations should be opened with a view to concluding a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is authorised to negotiate, on behalf of the European Union, with a view to concluding a Sustainable Fisheries Partnership Agreement and protocol with the Republic of The Gambia.

Article 2

These negotiations shall be conducted in consultation with the special committee designated by the Council and in accordance with the negotiating directives set out in the Annex.

Article 3

This Decision is addressed to the Commission

Done at Brussels,

*For the Council
The President*