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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION denouncing the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros

COUNCIL DECISION (EU) 2017/...

of ...

**denouncing the Partnership Agreement in the fisheries sector
between the European Community and
the Union of the Comoros**

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 point (a) of the second subparagraph of Article 218(6) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

¹ Consent of ... (not yet published in the Official Journal).

Whereas:

- (1) Council Regulation (EC) No 1563/2006¹ concerns the conclusion of the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros ('the EU-Comoros FPA').
- (2) One of the objectives of the EU-Comoros FPA is to ensure that the measures for the conservation and management of fish stocks are effective, and that illegal, undeclared or unregulated ('IUU') fishing is prevented.
- (3) Pursuant to Article 11 of the EU-Comoros FPA, the Agreement applies for seven years from the date of its entry into force and is renewable for additional periods of seven years, unless notice of termination is given by either Party.
- (4) Pursuant to Article 12 of the EU-Comoros FPA, the Agreement may be terminated by either Party in the event of serious circumstances such as the failure to comply with undertakings made with regard to combating IUU fishing. The Party concerned is to notify the other Party of its intention to withdraw from the Agreement at least six months before the date of expiry of the initial period of seven years or of each additional period. The dispatch of such notification is to open consultations between the Parties.

¹ Council Regulation (EC) No 1563/2006 of 5 October 2006 concerning the conclusion of the Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros (OJ L 290, 20.10.2006, p. 6).

- (5) Pursuant to Article 31 of Council Regulation (EC) No 1005/2008¹ ('the IUU Regulation'), the Commission is to identify the third countries that it considers as non-cooperating third countries in fighting IUU fishing. A third country may be identified as a non-cooperating third country if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.
- (6) In accordance with a decision adopted by the Commission on 1 October 2015², the Union of the Comoros was notified of the possibility of being identified by the Commission as a non-cooperating third country in fighting IUU fishing because of the flag of convenience policy pursued by the Comorian authorities, evidence of illegal fishing activities by the Comorian fleet, the poor or inexistent monitoring and control capacities of the Comorian authorities, and the outdated Comorian legal fisheries framework.
- (7) By that decision, the Commission opened a dialogue process with the Union of the Comoros which was carried out in accordance with the procedural requirements laid out in Article 32 of the IUU Regulation. The Union of the Comoros failed to take the necessary remedial action within reasonable time.

¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

² Commission Decision of 1 October 2015 on notifying a third country of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (OJ C 324, 2.10.2015, p. 6).

- (8) In view of the Union of the Comoros' persistent failures to discharge its duties under international law as a flag, port, coastal or market State and to take action to prevent, deter and eliminate IUU fishing, the Union of the Comoros has been identified in accordance with Article 31 of the IUU Regulation as a non-cooperating third country in fighting IUU fishing by Commission Implementing Decision (EU) 2017/889¹. After that identification, the Union of the Comoros still failed to take the necessary remedial action.
- (9) In accordance with Article 33 of the IUU Regulation, Council Implementing Decision (EU) 2017/1332² added the Union of the Comoros to the list of non-cooperating third countries established by Council Implementing Decision 2014/170/EU³.

¹ Commission Implementing Decision (EU) 2017/889 of 23 May 2017 identifying the Union of the Comoros as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (OJ L 135, 24.5.2017, p. 35).

² Council Implementing Decision (EU) 2017/1332 of 11 July 2017 amending Implementing Decision 2014/170/EU establishing a list of non-cooperating third countries in fighting illegal, unreported and unregulated fishing, as regards the Union of the Comoros (OJ L 185, 18.7.2017, p. 37).

³ Council Implementing Decision 2014/170/EU of 24 March 2014 establishing a list of non-cooperating third countries in fighting IUU fishing pursuant to Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 91, 27.3.2014, p. 43).

- (10) Pursuant to Article 38(8) of the IUU Regulation, the Commission is to propose the denunciation of any standing bilateral fisheries agreement or fisheries partnership agreement with a non-cooperating third country, where that agreement provides for termination where that country failed to comply with undertakings with regard to combating IUU fishing.
- (11) It is therefore appropriate to denounce the EU-Comoros FPA.
- (12) The Commission, on behalf of the European Union, should notify the Union of the Comoros of the denunciation.
- (13) The denunciation should take effect six months after that notification.
- (14) However, if the Union of the Comoros is withdrawn from the list of non-cooperating third countries under Article 33 of the IUU Regulation by the Council before the denunciation takes effect, the denunciation should be withdrawn and the Commission should immediately notify this withdrawal to the Union of the Comoros,

HAS ADOPTED THIS DECISION:

Article 1

The Partnership Agreement in the fisheries sector between the European Community and the Union of the Comoros ('the EU-Comoros FPA'), which entered into force on 6 March 2008, shall be denounced.

Article 2

1. On entry into force of this Decision, the Commission, on behalf of the European Union, shall notify the Union of the Comoros of the denunciation of the EU-Comoros FPA.
2. The denunciation shall take effect six months after that notification.
3. If the Union of the Comoros is withdrawn from the list of non-cooperating third countries under Article 33 of the IUU Regulation by the Council before the denunciation takes effect, the denunciation shall be withdrawn and the Commission shall immediately notify this withdrawal to the Union of the Comoros.

Article 3

This Decision shall enter into force on the day after its publication in the *Official Journal of the European Union*.

Done at Brussels,

For the Council

The President
