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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: Sustainable Fisheries Partnership Agreement between the European Union
and the Republic of The Gambia

SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENT
BETWEEN THE EUROPEAN UNION
AND THE REPUBLIC OF THE GAMBIA

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THE EUROPEAN UNION,

hereinafter referred to as "the Union", and

THE REPUBLIC OF THE GAMBIA,

hereinafter referred to as "The Gambia",

both hereinafter referred to as "the Parties",

CONSIDERING the close working relationship between the Union and The Gambia, particularly in the context of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000 (hereinafter referred to as "the Cotonou Agreement"), and their mutual desire to intensify that relationship,

HAVING REGARD TO the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and the Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 1995,

DETERMINED to apply the decisions and recommendations taken by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and other relevant regional fisheries organisations,

AWARE of the importance of the principles laid down by the Code of Conduct for Responsible Fisheries adopted at the Food and Agriculture Organization (FAO) Conference in 1995,

DETERMINED to cooperate, in their mutual interest, in promoting the introduction of responsible fisheries to ensure the long-term conservation and sustainable exploitation of marine biological resources,

CONVINCED that such cooperation should be based on initiatives and measures which, whether taken jointly or individually, are complementary and consistent with policy and ensure synergy of efforts,

INTENDING, to these ends, to commence a dialogue on the sectoral fisheries policy of the Government of The Gambia and to identify the appropriate means of ensuring that this policy is effectively implemented and that economic operators and civil society are involved in the process,

DESIROUS of establishing terms and conditions governing the fishing activities of Union vessels in Gambian waters and Union support for developing sustainable fishing in that zone,

DESIROUS of establishing an agreement of mutual benefit to the Union and The Gambia,

DETERMINED to pursue closer economic cooperation in the fishing industry and related activities between the Parties,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Definitions

For the purposes of this Agreement, the following definitions shall apply:

- (a) "the Gambian authorities" means the ministry in charge of fisheries in the Republic of The Gambia;
- (b) "Union authorities" means the European Commission;
- (c) "this Agreement" means this Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia,
- (d) "the Protocol" means the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia, the Annex to the Protocol and the Appendices to that Annex;
- (e) "fishing activity" means: searching for fish; shooting, setting, towing and hauling of a fishing gear; taking catch on board; processing on board, transferring, caging, fattening and landing of fish and fishery products;
- (f) "fishing vessel" means any vessel equipped for commercial exploitation of marine biological resources;

- (g) "Union vessel" means a fishing vessel flying the flag of a Member State of the Union and registered in the Union;
- (h) "support vessel" means any Union vessel providing assistance to fishing vessels which is not equipped for catching fish or used for transshipment operations;
- (i) "the Gambian fishing zone" means the part of the waters under the sovereignty or jurisdiction of The Gambia where The Gambia authorises Union vessels to engage in fishing activities;
- (j) "sustainable fishing" means fishing in accordance with the objectives and principles laid down by the Code of Conduct for Responsible Fisheries adopted at the FAO Conference in 1995.

ARTICLE 2

Scope

This Agreement establishes the principles, rules and procedures governing:

- (a) the conditions under which Union vessels may engage in fishing activities in the Gambian fishing zone;

- (b) economic, financial, technical and scientific cooperation in the fisheries sector with a view to promoting sustainable fishing in the Gambian fishing zone and the development of the Gambian fisheries and maritime sectors;
- (c) cooperation on management, control and surveillance measures in the Gambian fishing zone with a view to ensuring that the above rules and conditions are complied with and that the measures for the conservation of fish stocks and management of fishing activities, in particular those concerning the fight against illegal, unreported and unregulated (IUU) fishing, are effective;
- (d) partnerships between operators aimed at developing economic activities in the fisheries sector and related activities, in the common interest.

ARTICLE 3

Principles and objectives for the implementation of this Agreement

1. The Parties undertake to promote sustainable fisheries in the Gambian fishing zone on the basis of the principle of non-discrimination between the different vessels present in that zone.

2. The Gambian authorities undertake not to give more favourable conditions than those accorded under this Agreement to other foreign vessels operating in the Gambian fishing zone which have the same characteristics and target the same species as those covered by this Agreement and the Protocol. These conditions refer to the conservation, development and management of resources, financial arrangements, fees and rights relating to the issuing of fishing authorisations. The Gambian authorities undertake to grant an appropriate share of the surplus of marine biological resources for the Union vessels, where relevant.

3. In the interest of transparency, The Gambia undertakes to make public and exchange information relating to any agreement authorising foreign vessels in its fishing zone and the resulting fishing effort, in particular the number of fishing authorisations issued and the catches reported.

4. The Parties agree that Union vessels shall fish only the surplus of the allowable catch referred to in Article 62(2) and (3) of UNCLOS and established in a clear and transparent manner on the basis of available and relevant scientific advice and relevant information exchanged between the Parties concerning the total fishing effort on the relevant stocks by all vessels operating in the fishing area.

5. With respect to straddling or highly migratory fish stocks, the Parties shall comply with regional scientific assessments and conservation and management measures adopted by relevant regional fisheries management organisations.

6. The Parties undertake to ensure that this Agreement is implemented in accordance with Article 9 of the Cotonou Agreement concerning the essential elements of respect for human rights, democratic principles and the rule of law, and the fundamental element of good governance.
7. The Parties shall cooperate with a view to implementing a sectoral fisheries policy adopted by the Government of The Gambia and shall initiate a policy dialogue on the necessary reforms.
8. The Declaration of the International Labour Organization (ILO) on fundamental principles and rights at work shall be fully applicable to African, Caribbean and Pacific (ACP) seamen signed on to Union vessels, in particular as regards the freedom of association and collective bargaining of workers and the elimination of discrimination in respect of employment and occupation.
9. The Parties shall consult one another prior to adopting any decision that may affect the activities of Union vessels under this Agreement.

ARTICLE 4

Access to the Gambian fishing zone

The Gambian authorities undertake to authorise Union vessels to engage in fishing activities in the Gambian fishing zone in accordance with this Agreement and applicable laws of The Gambia.

ARTICLE 5

Conditions for carrying out fishing activities and exclusivity clause

1. Union vessels may engage in fishing activities in the Gambian fishing zone only if they hold a fishing authorisation (defined as "licence" as per Gambian legislation) issued under this Agreement. All fishing activities not covered by this Agreement are forbidden.
2. The Gambian authorities shall issue fishing authorisations to Union vessels only under this Agreement. The issue of any fishing authorisation to Union vessels not covered by this Agreement, in particular in the form of a direct authorisation, is forbidden.
3. The procedure for obtaining a fishing authorisation for a Union vessel, the fees applicable and the method of payment to be used by the vessel owner shall be defined in the Protocol.
4. The Parties shall ensure the proper application of these conditions and arrangements through appropriate administrative cooperation between their competent authorities.

ARTICLE 6

Applicable law

1. The fishing activities of Union vessels operating in the Gambian fishing zone shall be subject to the applicable laws and regulations of The Gambia, unless otherwise provided in this Agreement or the Protocol. The Gambia shall provide the Union authorities with the applicable laws and regulations.
2. The Gambia shall take the appropriate steps required for the effective application of the fisheries monitoring, control and surveillance provisions in this Agreement. Union vessels shall cooperate with the Gambian authorities responsible for carrying out such monitoring, control and surveillance.
3. The Gambian authorities shall notify to the Union authorities any changes to existing legislation or new legislation with a potential impact on the activities of Union vessels. Such legislation shall be enforceable with respect to Union vessels from the 60th day following the day on which the notification is received by the Union authorities from The Gambia.
4. The Union shall take the appropriate steps required to ensure that its vessels comply with this Agreement and the legislation governing fisheries in the Gambian fishing zone.
5. The Union authorities shall notify without delay to the Gambian authorities any changes to Union law with a potential impact on the activities of Union vessels under this Agreement.

ARTICLE 7

Financial contribution

1. The Union shall grant The Gambia a financial contribution under this Agreement in order to:
 - (a) support part of the access costs of Union vessels to the Gambian fishing zone and fisheries resources, without prejudice to the access costs borne by the vessel owners;
 - (b) reinforce The Gambia's capacity to develop a sustainable fisheries policy through sectoral support.

2. The financial contribution for sectoral support shall be dissociated from the payments regarding access costs and shall be determined and conditioned by the achievements of the objectives of The Gambia's sectoral support in accordance with the Protocol and the annual and multiannual programming for its implementation.

3. The financial contribution granted by the Union shall be paid each year in accordance with the Protocol.

The amount of the contribution referred to in point (a) of paragraph 1 may be revised by the Joint Committee in respect of:

- (a) a reduction in the fishing opportunities granted to Union vessels for the purposes of managing the stocks concerned, where this is considered necessary for the conservation and sustainable exploitation of resources on the basis of the best available scientific advice;
- (b) an increase in the fishing opportunities granted to Union vessels, where the best available scientific advice concurs that the state of resources so permits.

The amount of the contribution referred to in point (b) of paragraph 1 may be revised as a result of a reassessment of the terms of the financial contribution for implementing the sectoral fisheries policy of The Gambia, where this is warranted by the specific results of the annual and multiannual programming observed by both Parties.

The contribution may be suspended as a result of:

- (a) the application of Article 15 of this Agreement;
- (b) the application of Article 16 of this Agreement.

ARTICLE 8

Promoting cooperation among economic operators and civil society

1. The Parties shall encourage economic and technical cooperation in the fisheries sector and related sectors. They shall consult one another with a view to coordinating the different measures that might be taken to this end.
2. The Parties undertake to promote the exchange of information on fishing techniques, gear, preservation methods and the industrial processing of fisheries products.
3. The Parties shall endeavour, where appropriate, to create conditions favourable to the promotion of relations between their enterprises in the technical, economic and commercial spheres, by encouraging the establishment of an environment favourable to the development of business and investment.
4. The parties shall cooperate with a view to promoting the landing of catches from Union vessels operating in The Gambia.
5. The Parties shall encourage the setting-up of joint enterprises in the field of fisheries and maritime economy.

ARTICLE 9

Joint Committee

1. A Joint Committee composed of representatives of the Union and the Gambian authorities shall be set up to monitor the application of this Agreement. The Joint Committee may adopt modifications to the Protocol.
2. The Joint Committee's functions shall consist in particular of:
 - (a) monitoring the performance, interpretation and application of this Agreement and, in particular, the definition of the annual and multiannual programming referred to in Article 7(2) and evaluation of its implementation;
 - (b) providing the necessary liaison for matters of mutual interest relating to fisheries, in particular statistical analysis of data on catches;
 - (c) acting as a forum for the amicable settlement of any disputes regarding the interpretation or application of this Agreement.

3. The decision-making function of the Joint Committee shall consist of approving modifications to the Protocol with regard to:
- (a) the review of fishing opportunities and, consequently, of the relevant financial contribution;
 - (b) the sectoral support procedures;
 - (c) the technical conditions and modalities under which Union vessels carry out their fishing activities.
4. The Joint Committee shall exercise its functions in accordance with the objectives of this Agreement and with the relevant rules adopted by ICCAT and other regional fisheries organisations, where relevant.
5. The Joint Committee shall meet at least once a year, alternately in The Gambia and in the Union, or as otherwise agreed by common accord, and shall be chaired by the Party hosting the meeting. It shall hold a special meeting at the request of either Party. Decisions shall be taken by consensus and shall be attached to the agreed minutes of the meeting.

ARTICLE 10

Cooperation in the area of combating IUU fishing

The Parties undertake to cooperate in the fight against IUU fishing activities with a view to the implementation of responsible and sustainable fishing.

ARTICLE 11

Scientific cooperation

1. The Parties shall encourage scientific cooperation to regularly assess the status of fish stocks in The Gambia's waters in collaboration with regional and subregional scientific bodies.
2. The Parties undertake to consult one another, if necessary, in the framework of ICCAT and other relevant regional fisheries organisations to reinforce the management and conservation of marine biological resources in the Gambian fishing zone.

ARTICLE 12

Geographical area of application

This Agreement shall apply, on the one hand, to the territories in which the Treaty on European Union and the Treaty on the Functioning of the European Union apply, under the conditions laid down in those Treaties, and, on the other, to the territory of The Gambia.

ARTICLE 13

Duration and tacit renewal

This Agreement shall apply for six years from the date of the start of its provisional application. It shall be tacitly renewed, unless notice of termination is given in accordance with Article 16.

ARTICLE 14

Provisional application

This Agreement shall be provisionally applied as from the date of its signature.

ARTICLE 15

Suspension

1. Application of this Agreement may be suspended at the initiative of either Party in one or more of the following cases:
 - (a) where circumstances, other than natural phenomena, which are beyond the reasonable control of one of the Parties arise and are such as to prevent fishing in the Gambian fishing zone;
 - (a) where a dispute arises between the Parties over the interpretation or implementation of this Agreement;
 - (b) where one of the Parties ascertains a breach of essential and fundamental elements on human rights as laid out by Article 9 of the Cotonou Agreement and following the procedure set out in Articles 8 and 96 thereof.
2. Suspension of the application of this Agreement shall be notified by the interested Party to the other Party in writing and shall take effect three months after receipt of notification. The receipt of the notification shall open consultations between the Parties with a view to finding an amicable solution to their dispute within three months.

3. Where differences are not resolved amicably and suspension is implemented, the Parties shall continue to consult each other with a view to finding a settlement to their dispute. Once such settlement is reached, implementation of this Agreement shall resume and the amount of the financial contribution referred to in Article 7 shall, unless otherwise agreed, be reduced proportionately and *pro rata temporis* according to the period during which implementation was suspended.

ARTICLE 16

Termination

1. This Agreement may be terminated by either Party in one or more of the following cases:
 - (a) where circumstances, other than natural phenomena, which are beyond the reasonable control of one of the Parties arise and are such as to prevent fishing activities in the Gambian fishing zone;
 - (b) a degradation of the stocks concerned on the basis of best available independent and reliable scientific advice;
 - (c) a reduced level of exploitation of the fishing opportunities granted to Union vessels;

(d) violation of the commitments made by the Parties with regard to combating IUU fishing.

2. Termination of this Agreement shall be notified in writing by the interested Party to the other Party and shall take effect six months after receipt of notification, except if the Parties decide by common accord to extend this period. The Parties shall enter into consultations from the moment of notification of termination with a view to finding an amicable settlement to their dispute within the six-month period.

3. In the event of termination, payment of the amount of the financial contribution referred to in Article 7 for the year in which the termination takes effect shall be reduced proportionately and *pro rata temporis*.

ARTICLE 17

Repeal

The Agreement between the European Economic Community and the Government of the Republic of the Gambia on fishing off the Gambia, which entered into force on 2 June 1987, is hereby repealed.

ARTICLE 18

Entry into force

This Agreement shall enter into force on the date on which the Parties notify each other that they have completed the necessary procedures for that purpose.

ARTICLE 19

Languages

This Agreement shall be drawn up in duplicate in the Bulgarian, Czech, Croatian, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.