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COVER NOTE

From:	Secretary-General of the European Commission, 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:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations for the establishment of a regional fisheries management organisation or arrangement for the conservation and management of marine living resources in the western and central Atlantic ocean

Delegations will find attached document **COM(2019) 291 final**.

Encl.: **COM(2019) 291 final**



Brussels, 27.6.2019
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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for the establishment of a regional fisheries management organisation or arrangement for the conservation and management of marine living resources in the western and central Atlantic ocean

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

• **Reasons for and objectives of the recommendation**

The Western and Central Atlantic Fisheries Commission (WECAFC) is an advisory body established in 1973 under Article VI of the Constitution of the Food and Agriculture Organization of the United Nations (FAO). Its purpose is to promote the conservation, management and development of the living marine resources within its area of competence. However, the WECAFC does not take binding decisions on its members. The WECAFC Secretariat is managed and financed by the FAO. The Union is a member of the WECAFC.

In the context of ‘Promoting regional fisheries management and cooperation in key ocean areas to fill regional governance gaps of the Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission on International ocean governance: an agenda for the future of oceans’, the Union pledged under action 2 to ‘support the upgrading by 2020 of the Fishery Committee for the Eastern Central Atlantic and the Western Central Atlantic Fishery Commission’.

A process of strategic reorientation was initiated in 2012 and involved a performance review (2013-2014), a strategic plan (2014), two ‘reorientation and strategic planning’ workshops (2014 and 2015) and a cost-benefit analysis of the reorientation process (2016). At the 16th WECAFC plenary session (2016), the Members of the Commission agreed to launch a process to clarify certain key issues related to the establishment of a regional fisheries management organisation (RFMO) in the WECAFC area. At the end of 2018, the WECAFC Secretariat prepared a ‘discussion paper’ to clarify issues related to the objectives, area of competency, coverage of stocks, institutional structure, financial implications, etc. On 25 and 26 March 2019, the 1st preparatory workshop of the WECAFC reorientation took place in Barbados to prepare the 17th WECAFC plenary for July 2019, where the topic of establishing an RFMO in the WECAFC area will be addressed.

The creation of a binding instrument to reform WECAFC in the western and central Atlantic area will provide a firm basis for the sustainable management and conservation of marine biological resources there. This is in line with Article 28 of Regulation (EU) No 1380/2013 on the common fisheries policy of the European Parliament and of the Council and in line with the Council Conclusions of 19 March 2012 on the Communication from the Commission on the ‘External dimension of the common fisheries policy’.

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

RFMOs are international organisations formed by countries. Members include countries in the region (coastal states), regional integration organisations, such as the EU, and fishing entities with fishing interests in a given area. Some RFMOs manage all the fish stocks within a specific area, while others focus on particular highly migratory species, notably tuna, across vast geographical areas. While some are purely advisory, most have management powers to set limits on catches and fishing effort, lay down technical measures, and control obligations.

In line with the Commission Communication on ‘Participation in regional fisheries organisations (RFOs)’ the European Union, represented by the Commission, plays an active role in 6 tuna organisations and 11 non-tuna organisations.

Promoting measures to make RFMOs more effective and, where relevant, improve their governance is a central feature of the EU's action in these fora. This is in accordance with the Joint Communication by the High Representative of the EU for Foreign Affairs and Security Policy and the European Commission on 'International ocean governance: an agenda for the future of oceans' and the Council conclusions on that joint communication.

2. LEGAL ELEMENTS OF THE RECOMMENDATION

• Legal basis

The objective of the present recommendation is to obtain from the Council the authorisation for the Commission to negotiate the establishment of an RFMO in the western and central Atlantic area on behalf of the EU. The legal basis for the Council to authorise the opening of negotiations is Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU).

• Choice of the instrument

Under Article 218(3) and (4) of the TFEU, the Commission submits recommendations to the Council, which adopts a decision authorising the opening of negotiations. The Council may address directives to the negotiator and designate a special committee to oversee the negotiations in accordance with the negotiating directives.

3. RESULTS OF CONSULTATIONS WITH STAKEHOLDERS

This initiative is linked to a commitment made under the Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission on 'International ocean governance: an agenda for the future of oceans', for which a stakeholder consultation was organised. In addition, the Commission presented a non-paper at the Council Working Party in March 2019, proposing EU support for the WECAFC reform process, which was broadly supported by Member States.

4. BUDGETARY IMPLICATIONS

EU accession to the Convention may require that a yearly financial contribution, estimated at EUR 100 000, be paid to the new organisation from budget line 11.03.02 (Compulsory contributions to RFMOs). The EU contribution may vary, depending on the final agreement on the criteria to be used to calculate the contributions of the parties to the organisation's expenses. The exact amount will be earmarked in the relevant budget lines in the annual budget procedure.

Voluntary contributions to the organisation's budget under budget line 11.06.62.03, to promote scientific research, may also be relevant, but the exact amount is difficult to determine at this stage. Budget line 11.01.04.01 also provides for technical assistance to support the provision of scientific advice at the NPFC meeting. The cost of this is estimated at EUR 10 000 per year.

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The Union is competent to adopt measures for the conservation of marine biological resources under the common fisheries policy and to enter into agreements with third countries and international organisations.
- (2) Pursuant to Council Decision 98/392/EC, the Union is a Contracting Party to the United Nations Convention on the Law of the Sea of 10 December 1982. That convention requires all members of the international community to cooperate in conserving and managing the biological resources of the sea.
- (3) Pursuant to Council Decision 98/414/EC, the Union is a Contracting Party to the Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982, relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.
- (4) Regulation (EU) No 1380/2013 of the European Parliament and of the Council provides that the Union shall conduct its external fisheries relations in accordance with its international obligations and policy objectives, as well as the objectives and principles set out in Articles 2 and 3 of that Regulation, in order to ensure sustainable exploitation, management and conservation of marine biological resources and the marine environment.
- (5) The Western and Central Atlantic Fisheries Commission (WECAFC) is an advisory body established in 1973 under Article VI of the Constitution of the Food and Agriculture Organization of the United Nations (FAO), with the objective of promoting conservation, management and development of the living marine resources within its area of competence.
- (6) WECAFC initiated a process of strategic reorientation in 2012 that has involved a performance review (2013-2014), a strategic plan (2014), two ‘reorientation and strategic planning’ workshops (2014 and 2015) and the 1st preparatory workshop (March 2019).
- (7) Starting in July 2019, international consultations will take place with a view to conclude an international agreement for establishing a regional fisheries management organisation or arrangement with a power to take legally binding decisions for the

conservation and management of marine living resources in the western and central Atlantic ocean with the participation of WECAFC members.

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the European Union, an agreement for the establishment of a regional fisheries management organisation or an instrument for the conservation and management of marine living resources in the western and central Atlantic Ocean.

Article 2

These negotiations shall be conducted in consultation with the [name of the special committee to be designated by the Council] and on the basis of the negotiation directives set out in the annex to this decision.

Article 3

The Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*