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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	General Secretariat of the Council
No. Cion doc.:	COM(2022) 423 final
Subject:	Proposal for a COUNCIL DECISION on the conclusion of a Protocol implementing the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (2022-2026)

Delegations will find attached document COM(2022) 423 final.

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EUROPEAN
COMMISSION

Brussels, 16.9.2022
COM(2022) 423 final

2022/0249 (NLE)

Proposal for a

COUNCIL DECISION

**on the conclusion of a Protocol implementing the Fisheries Partnership Agreement
between the European Union and the Republic of Mauritius (2022-2026)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Fisheries Partnership Agreement between the European Union and Mauritius was signed on 21 December 2012 and entered into force on 28 January 2014 for a period of 6 years. Unless terminated by one of the parties, it is tacitly renewed for additional periods of 3 years and is therefore still in force. The latest Protocol on the implementation of the Fisheries Partnership Agreement covered a period of 4 years from the date of its provisional application, i.e. from the date on which it was signed. It was signed on 8 December 2017 and expired on 7 December 2021.

A six-month extension of the Protocol was agreed in the form of an Exchange of Letters between the European Union and Mauritius, and was signed on 5 April 2022.

On the basis of the relevant negotiating directives¹, the Commission conducted negotiations with Mauritius on concluding a new Protocol to the Fisheries Partnership Agreement between the European Union and Mauritius. Following these negotiations, a new Protocol was initialled on 7 May 2022.

The new Protocol covers a period of 4 years from the date of provisional application laid down in Article 18 of the Protocol – the date on which it is signed by both parties.

The purpose of this proposal is to authorise the conclusion of the Implementing Protocol, in accordance with Article 218(6) of the Treaty on the Functioning of the European Union (TFEU).

• Consistency with existing policy provisions in the policy area

The main aim of the new Protocol is to provide an updated framework that takes into account the priorities of the reformed common fisheries policy and its external dimension. This will help continue and strengthen the strategic partnership between the European Union and Mauritius. The new Protocol will enable them to work more closely on promoting a sustainable fisheries policy, in line with the objective of conserving marine biological resources recognised in EU law, a sound exploitation of fishery resources in Mauritian waters, and Mauritius' efforts to develop its sustainable ocean economy, in the interests of both parties. This cooperation will also help promote decent working conditions in the fisheries sector.

The new Protocol provides fishing opportunities for EU vessels in Mauritian waters. This is based on the best available scientific advice and the recommendations made by the regional fisheries organisation that manages highly migratory fish stocks, the Indian Ocean Tuna Commission, where applicable within the limits of the available surplus. The Commission has based its position in part on the results of an evaluation of the previous Protocol (2017-2021) and a forward-looking assessment of whether a new Protocol should be concluded. Both were carried out by external experts.

The Protocol provides for the following fishing opportunities:

¹ Adopted by the 3813th meeting of the Competitiveness Council (Internal Market, Industry, Research and Space) on 28.09.2021.

- 40 tuna seiners;
- 45 surface longliners.

- **Consistency with other Union policies**

The negotiation of a new Protocol forms part of EU external action in relation to African, Caribbean and Pacific countries and takes into account in particular EU objectives on respecting democratic principles and human rights.

The EU and Mauritius are Parties to the interim Agreement, signed on 29 August 2009, establishing a framework for an Economic Partnership Agreement (EPA) between the Eastern and Southern Africa States, on the one part, and the European Community and its Member States. The negotiations of a new Protocol are in line with the EPA, which provides for cooperation between the Parties in fisheries trade and development covering marine, inland fisheries and aquaculture.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is Article 43(2) TFEU, which establishes the common fisheries policy, and Article 218(6) TFEU, which provides that the Council, following a proposal by the negotiator, must adopt a decision concluding the agreement.

Article 17(1) of the Treaty on European Union lays down that with the exception of the common foreign and security policy, the Commission is to ensure EU external representation. As a result, officials designated by the Commission have sole competence for notifying Mauritius of the completion of the ratification process.

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

The proposal falls under the exclusive competence of the European Union.

- **Proportionality**

The proposal is proportionate to the objective of establishing a legal, environmental, economic and social governance framework for fishing activities carried out by EU vessels in third-country waters, as set out in Article 31 of the Regulation (EU) No 1380/2013 establishing the common fisheries policy. It complies with those provisions as well as with those on financial assistance to third countries laid down in Article 32 of that Regulation.

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

- **Ex post evaluations/fitness checks of existing legislation**

In 2021, the Commission carried out an *ex post* evaluation of the 2017-2021 Protocol to the Fisheries Partnership Agreement with Mauritius as well as an *ex ante* evaluation of a possible renewal of the Protocol.

The evaluation of the 2017-2021 Protocol¹ concluded that it complemented the other access arrangements established in the region, allowing EU vessels to optimise exploitation of

¹ ISBN: 978-92-76-38078-8 doi: 10.2771/046775.

migratory stocks within the regional rules set by the Indian Ocean Tuna Commission. It was relevant to the needs of EU stakeholders as it provided EU shipowners with predictable access to a productive fishing area where targeted species are abundant. Access to Mauritian waters provides the EU longline fleet based in La Réunion with opportunities to extend fishing areas to neighbouring waters. The activities of the EU tuna fleet in Mauritian waters and in the broader Indian Ocean have generated substantial positive socio-economic impacts for Mauritius, and the EU financial contribution has been broadly aligned with the fishing opportunities exploited. On sectoral support, the evaluation noted that the programme had been implemented with delays and that a future sectoral support programme should aim as a matter of priority to strengthen Mauritius' capacity to comply with its international obligations, in particular those related to scientific observations, catch sampling and port inspections. A future sectoral support programme could also help develop the national fishing sector through support to small-scale fishers and the development of a semi-industrial segment. The evaluation also recommends earmarking part of the funding available for the recruitment of an external technical assistant to coordinate and facilitate the implementation of the sectoral support programme.

For the EU, it is important to maintain an instrument that allows close sectoral cooperation with a country that is a major economic partner, a fish product supplier to the EU, stakeholders on the international scene and has fishing grounds that are of interest to the EU fleet.

- **Stakeholder consultations**

As part of the evaluation, the Commission consulted Member States, industry representatives and international civil society organisations, as well as Mauritius' fisheries administration and civil society. Consultations also took place within the Long Distance Fisheries Advisory Council. These consultations led to the conclusion that it would be beneficial for the European Union and Mauritius to conclude a new Protocol to the Fisheries Partnership Agreement.

- **Collection and use of expertise**

The Commission used an independent consultant for the *ex post* and *ex ante* evaluations, in accordance with the provisions of Article 31(10) of the Regulation (EU) No 1380/2013 establishing the common fisheries policy.

- **Fundamental rights**

The negotiated agreement includes a clause on the consequences of violating the essential elements on human rights laid down in Article 9 of the Cotonou Agreement, or the corresponding article of the agreement that will succeed it.

4. BUDGETARY IMPLICATIONS

The annual financial contribution is EUR 725 000, based on :

(a) a reference tonnage of 5 500 tonnes, for which an annual amount linked to access has been set at EUR 275 000;

(b) support for developing Mauritius' sectoral fisheries policy, amounting to EUR 275 000 per year; and

(c) support for developing the maritime policy and blue economy, amounting to EUR 175 000 per year.

This support meets the objectives of cooperation in the field of ocean economy, aquaculture, sustainable development of the oceans, maritime spatial planning, marine energy and marine environment, and development of the maritime policy and blue economy.

The annual amount for commitment and payment appropriations is established during the annual budgetary procedure, including for the reserve line for protocols not yet having entered into force at the beginning of the year¹.

5. OTHER ELEMENTS

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

The monitoring arrangements are provided for in the Fisheries Partnership Agreement and its
Implementing Protocol.

¹ In accordance with the Interinstitutional Agreement on cooperation in budgetary matters, point 20 (OJ L 433I, 22.12.2020).

Proposal for a

COUNCIL DECISION

on the conclusion of a Protocol implementing the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (2022-2026)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) in conjunction with Article 218(6)(a)(v) and (7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) In accordance with Council Decision [XXX] of [...] ², the Protocol implementing the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (2022-2026) (hereinafter: ‘the Protocol’) was signed on [...], subject to its conclusion at a later date.
- (2) The objective of the Protocol is to enable the European Union and Mauritius to work more closely on promoting cooperation in the field of ocean economy, aquaculture, sustainable development of the oceans, maritime spatial planning, marine energy and marine environment, the development of maritime policy and blue economy, while contributing to decent working conditions in the fisheries sector.
- (3) The Protocol should be approved on behalf of the Union.
- (4) Article 9 of the Agreement establishes a Joint Committee responsible for monitoring its application. Furthermore, pursuant to the Protocol, the Joint Committee may approve certain amendments to the Protocol. The Union’s position on amendments that are proposed to the Protocol should be established by the Council. The Commission should approve the proposed amendments on behalf of the Union, unless a number of Member States constituting a blocking minority, in accordance with Article 16(4) of the Treaty on European Union, object to them.
- (5) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725³ of the European Parliament and of the Council and delivered an opinion on [insert date].

¹ OJ C , , p. .

² Council Decision (EU) 2021/... of ... 2021 on ... (OJ C [...], [...], p. [...]).

³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC ([OJ L 295, 21.11.2018, p. 39](#)).

HAS ADOPTED THIS DECISION:

Article 1

The Protocol implementing the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (2022-2026) is hereby approved on behalf of the Union.

The text of the Protocol is attached to this Decision as Annex I.

Article 2

The Commission shall, on behalf of the Union, give the notification provided for in Article 19 of the Protocol, in order to express the Union's consent to be bound by the Protocol.

Article 3

Subject to the provisions and conditions set out in Annex II to this Decision, the Commission shall be empowered to approve, on behalf of the Union, amendments to the Protocol adopted by the Joint Committee established under Article 9 of the Agreement.

Article 4

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

Done at Brussels,

For the Council

For the Council
The President