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European Union

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 697 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of the negotiations on behalf of the European Union for the conclusion of an Implementing Protocol to the Fisheries Partnership Agreement between the European Union and the Republic of Cabo Verde

Delegations will find attached document **COM(2023) 697 final**.

Encl.: **COM(2023) 697 final**



EUROPEAN
COMMISSION

Brussels, 13.11.2023
COM(2023) 697 final

Recommendation for a

COUNCIL DECISION

**authorising the opening of the negotiations on behalf of the European Union for the
conclusion of an Implementing Protocol to the Fisheries Partnership Agreement
between the European Union and the Republic of Cabo Verde**

{SWD(2023) 349 final} - {SWD(2023) 350 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Commission proposes to negotiate a new implementing protocol to the Fisheries Partnership Agreement with the Republic of Cabo Verde, which would meet the needs of the Union fleet and be in accordance with Articles 28, 31 and 32 of Regulation (EU) No 1380/2013 on the Common Fisheries Policy (CFP)¹ and the 19 March 2012 Council Conclusions on a Communication from the Commission on the External dimension of the CFP.

• Consistency with existing policy provisions in the policy area

The current fisheries partnership agreement (FPA) between the European Union and Cabo Verde² entered into force on 19 December 2006 for a duration of 5 years, and is tacitly renewable for additional periods of 5 years. The current five-years implementing protocol³ entered into application on 20 May 2019 and will expire on 19 May 2024. This Protocol fixes the fishing opportunities provided to the Union fleet and the corresponding financial contribution paid by the Union and the ship-owners. It is hereby recommended to negotiate a new Implementing Protocol to the current FPA with Cabo Verde.

The annual Union public financial contribution due to Cabo Verde amounts to EUR 400 000 for access, plus a specific amount of EUR 350 000 earmarked for sectoral support to Cabo Verde's fisheries policy.

The protocol with Cabo Verde provides fishing opportunities targeting tuna and highly migratory species for Union vessels from three Member States (Spain, France and Portugal). The European Union has already developed a network of bilateral sustainable fisheries partnership agreements (SFPAs) in the Atlantic Ocean, namely with Mauritania, Guinea Bissau, Senegal, Ivory Coast and the Gambia.

SFPAs help to promote the objectives 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 have three other benefits. Firstly, they foster scientific cooperation between the EU and its partner. Secondly, they promote transparency and sustainability for the better management of fishing resources. Thirdly, they encourage governance by: (i) supporting monitoring, control and surveillance of national and foreign fleets' activities; (ii) providing funding to both fight against illegal, unreported and unregulated (IUU) fishing, and to contribute to the sustainable development of local fishing industry. SFPAs strengthen the Union's position in international and regional fishing organisation. For example the EU's SFPA with Cabo Verde, particularly strengthen the EU's position in the International Commission for the Conservation of Atlantic Tuna (ICCAT)⁴.

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

² OJ L 414, 30.12.2006, p. 1.

³ OJ L 154, 12.6.2019, p. 3.

⁴ <https://www.iccat.int/>, intergovernmental organisation responsible for the management of tuna and tuna-like species in the Atlantic Ocean.

- **Consistency with other Union policies**

The negotiation of a new Implementing Protocol with Cabo Verde is in line with the Union's external action towards African, Caribbean and Pacific (ACP) countries, and in particular with Union objectives to promote democratic principles and human rights.

The promotion of decent work is ensured by the expected negotiation of a social clause in line with ILO Convention C188 for workers from the partner country employed by Union vessels.

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 particular its Part 5 on the Union's external action, Title V on international agreements, which sets out the procedure for negotiating and concluding agreements between the Union and non-EU countries.

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

Not applicable, exclusive competence.

- **Proportionality**

The Decision is proportional to the objective of promoting the objectives of the CFP internationally, and of ensuring that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) et (4) TFEU.

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

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

In 2023, the Commission carried out an *ex-post* evaluation of the current Protocol to the FPA with Cabo Verde and also carried out an *ex-ante* evaluation of a possible renewal of the Protocol. The conclusions of the evaluation are set out in a separate staff working document.

The evaluation concluded that the Union fishing sectors is firmly interested in fishing in Cabo Verde and that the renewal of the Protocol is in the interest of both parties. Furthermore, the renewal of the Protocol would: (i) help strengthening monitoring, control and surveillance, and (ii) contribute to improved governance of the fisheries in the region.

For the Union, it is important to maintain an instrument enabling a deep sectoral cooperation with Cabo Verde, which is both: (i) a strategic player at the sub-regional level due to the fishing area under its jurisdiction and (ii) an important ally ICCAT. Furthermore, for the Union fleet this means maintaining access to an important fishing area for the deployment of harvesting strategies under a multi-year international legal framework. Moreover, Cabo Verde's role in processing tuna caught in the Atlantic Ocean and consequent exports of tuna products to the Union makes the planned new protocol even more relevant, both for the Union fishing industry and for the fishing industry in Cabo Verde.. For Cabo Verde's authorities, the aim of renewing the Protocol is to continue relations with the Union, in part to strengthen

ocean governance, and in part to benefit from dedicated sectoral support that provides for multi-year funding opportunities.

- **Stakeholder consultations**

Member States, industry representatives, international civil society organisations, the Cabo Verdean fisheries administration and civil society in Cabo Verde, were consulted as part of the evaluation. Consultations have also taken place as part of the Long Distance Advisory Council's meetings.

- **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 authorising the opening of negotiations including a clause on the consequences of violations of human rights and democratic principles.

4. BUDGETARY IMPLICATIONS

The budgetary implications of the new Protocol result from the payment of a financial contribution to the Republic of Cabo Verde. The annual amounts of commitments and payments appropriations are established in the yearly budgetary procedure in compliance with the Multiannual Financial Framework for 2021-2027, and include the reserve line for protocols not entered into force in the beginning of the year.⁵

5. OTHER ELEMENTS

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

Negotiations are expected to start in the last quarter of 2023.

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

The Commission recommends that:

- the Council authorise the Commission to open and conduct negotiations for the conclusion of a new implementing protocol to the FPA with the Republic of Cabo Verde;

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

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

⁵ Chapter 40 (reserve line 40 02 41) in line with the MFF inter-institutional agreement ((2013/C 373/01).

- the Council approve the negotiating directives annexed to this Recommendation.

Recommendation for a

COUNCIL DECISION

authorising the opening of the negotiations on behalf of the European Union for the conclusion of an Implementing Protocol to the Fisheries Partnership Agreement between the European Union and the Republic of Cabo Verde

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding a new implementing protocol to the Fisheries Partnership Agreement with the Republic of Cabo Verde,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, a new implementing protocol to the Fisheries Partnership Agreement with the Republic of Cabo Verde.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Council Working Party on External Fisheries Policy.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*