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## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	29 August 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 389 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations on behalf of the European Union for a new Implementing Protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Cook Islands

Delegations will find attached document COM(2024) 389 final.

Encl.: COM(2024) 389 final



EUROPEAN  
COMMISSION

Brussels, 29.8.2024  
COM(2024) 389 final

Recommendation for a

## **COUNCIL DECISION**

**authorising the opening of negotiations on behalf of the European Union for a new  
Implementing Protocol to the Sustainable Fisheries Partnership Agreement with the  
Government of the Cook Islands**

{SWD(2024) 209 final} - {SWD(2024) 211 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 Sustainable Fisheries Partnership Agreement ('SFPA') between the European Union and the Government of the Cook Islands that would meet the current possibilities and needs of the Union fleet and is in line with Regulation (EU) No 1380/2013<sup>1</sup> on the Common Fisheries Policy (CFP) and the 19 March 2012 Council Conclusions on a Communication from the Commission on the External dimension of the Common Fisheries Policy.

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

The European Union and the Government of the Cook Islands have concluded a sustainable fisheries partnership agreement<sup>2</sup>, which entered into force on 10 May 2017<sup>3</sup> after having been provisionally applied since 14 October 2016. Its current implementing protocol ('the Protocol') will expire on 16 December 2024. The Protocol sets the fishing opportunities provided to the Union fleet and the corresponding financial contribution paid by the Union and the shipowners.

The current Protocol provides for a EUR 350 000 per year payment to the Cook Islands from the Union budget as financial compensation for access, granting the EU fleet the right to carry out at least 100 fishing days/year in the waters of the Cook Islands. In addition, Union shipowners pay authorisation fees based on prices set in the Protocol for the quota allocated. On top of that, EUR 350 000 per year is provided from the EU budget to support the Cook Islands' sectoral fisheries policy for the 3-year duration of the Protocol.

The SFPA with the Government of the Cook Islands provides fishing opportunities targeting tuna and highly migratory species for Union vessels from two Member States (Spain and France). Currently there are two SFPAs active in the Pacific Ocean<sup>4</sup>.

SFPAs help to promote the objectives of the common fisheries policy 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 foster scientific cooperation between the EU and its partners, and promote transparency and sustainability. This leads to the better management of fishing resources. SFPAs moreover encourage governance by: (i) supporting the monitoring, control and surveillance of national and foreign fleets' activities; and (ii) providing funding to fight against illegal, unreported and unregulated (IUU) fishing. SFPAs also contribute to the sustainable development of local fishing sectors. SFPAs strengthen the Union's position in international and regional fishing organisations: in the case of the Cook Islands in particular, in the Western and Central Pacific Ocean Commission (WCPFC)<sup>5</sup>. Finally, fishing opportunities granted through SFPAs are based on

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<sup>1</sup> OJ L 354, 28.12.2014, p. 22.

<sup>2</sup> OJ L 131, 20.05.2016, p. 3.

<sup>3</sup> OJ L 131, 20.05.2017, p. 10.

<sup>4</sup> Fisheries Partnership Agreements with the EU and, respectively, the Federated States of Micronesia, and Solomon Islands are currently dormant, since they have no implementing Protocol in force. A new SFPA with Kiribati entered into provisional application on 2 October 2023 for a duration of 5 years.

<sup>5</sup> <http://www.fao.org/fishery/rfb/WCPFC/en>, the body set up under international law for conserving and managing highly migratory species in the region.

the best available scientific advice and help to improve compliance with international measures.

- **Consistency with other Union policies**

The negotiation of a new implementing protocol with the Government of the Cook Islands 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 is the Treaty on the Functioning of the European Union, Part V External Action of the Union, Title V International Agreements, Article 218, which sets out the procedure to be followed for the negotiations and conclusion of agreements between the Union and third countries.

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

Not applicable, exclusive competence.

- **Proportionality**

The recommended decision is proportionate to the objective of laying down a legal, environmental, economic and social governance framework for fishing activities carried out by Union vessels in third-country waters, in accordance with Article 31 of Regulation (EU) No 1380/2013 establishing the common fisheries policy.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) and Article 218(4) of the Treaty on the Functioning of the European Union.

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

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

In 2024, the Commission carried out an *ex post* evaluation of the Protocol to the EU/Cook Islands SFPA as well as 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<sup>6</sup>.

The evaluation concluded that the part of the EU fishing industry that specialises in tropical tuna species is firmly interested in operating in the Cook Islands' fishing zone, and that the renewal of the Protocol clearly appears as the preferred option. A non-renewal would deprive the EU of an instrument capable of responding to both: (i) the needs of the various stakeholders; and (ii) its own needs in terms of strengthening the global governance of the oceans in the western and central Pacific Ocean through the WCPFC multilateral framework.

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<sup>6</sup> [reference]

For the Cook Islands, the EU intervention adds value by bringing: (i) multiannual certainty of budget income; and (ii) an official platform for sectoral dialogue and direct exchanges with the EU through cooperation and a framework for joint monitoring and control of EU activities. The SFPA helps to promote responsible fishing practices, and gives access to a dedicated budget line (sectoral support) for financial support to help the Cook Islands to implement its national fisheries policy.

- **Stakeholder consultations**

As part of this evaluation, the Commission consulted with: Member States; industry representatives; international civil society organisations; the Cook Islands' fisheries administration; and civil society. Consultations have also taken place as part of the Long Distance Advisory Council.

- **Collection and use of expertise**

The evaluations carried out called on independent experts in the field.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

A clause on the consequences of violations of human rights and democratic principles, as well as a social clause for the promotion of decent work are included in the SFPA.

#### **4. BUDGETARY IMPLICATIONS**

The annual amounts of commitments and payment appropriations to be provided are determined as part of the annual budgetary procedure in a manner compatible with the multiannual financial framework for the period 2021-2027, including reserve line 30.020200 for proposals which have not entered into force at the beginning of the year.

#### **5. OTHER ELEMENTS**

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

Negotiations are expected to open in the third quarter of 2024.

- **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 SFPA with the Government of the Cook Islands;
- the Commission be nominated as the EU negotiator in this area;
- the Commission conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;

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

Recommendation for a

## **COUNCIL DECISION**

**authorising the opening of negotiations on behalf of the European Union for a new  
Implementing Protocol to the Sustainable Fisheries Partnership Agreement with the  
Government of the Cook Islands**

THE COUNCIL OF THE EUROPEAN UNION,

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

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 Sustainable Fisheries Partnership Agreement with the Government of the Cook Islands,

HAS ADOPTED THIS DECISION:

### *Article 1*

The Commission is hereby authorised to negotiate, on behalf of the Union, a new implementing protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Cook Islands.

### *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*