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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	9 June 2020
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 on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Government of Cook Islands

Delegations will find attached document COM(2020) 227 final.

Encl.: COM(2020) 227 final



Brussels, 9.6.2020
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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Government of Cook Islands

{SWD(2020) 102 final} - {SWD(2020) 103 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Commission proposes to negotiate a new protocol that meets the actual possibilities and needs of the Member States fleet and is in line with Regulation (EU) N° 1380/2013 on the Common Fisheries Policy 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 Cook Islands have concluded a Sustainable Fisheries Partnership Agreement¹ effective from 14 October 2016². Its implementing protocol will expire on 13 October 2020. This Protocol fixes the fishing opportunities provided to the Union fleet and the corresponding financial contribution paid by the Union and the ship-owners.

The Protocol provides for EUR 385 000 for the first and second year, and of EUR 350 000 for the third and fourth year, from the EU budget as financial compensation for access for a reference tonnage of 7 000 t/year. In addition, EU ship-owners pay authorisation fees based on prices set in the Protocol for the quota allocated. On top of that, EUR 350 000 per year are also provided from the EU budget to support the Cook Islands sectoral fisheries policy for the four-year duration of the Protocol.

The SFPA with Cook Islands provides fishing opportunities targeting tuna and highly migratory species for EU vessels from two Member States (Spain and France). Currently the SFPA with Cook Islands is the only active in the Pacific Ocean³.

SFPAs contribute 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 foster scientific cooperation between the EU and its partners, promote transparency and sustainability for a better management of fishing resources. SFPAs encourage governance by supporting monitoring, control and surveillance of national and foreign fleets' activities and providing funding to fight against illegal, unreported and unregulated (IUU) fishing, and contribute to the sustainable development of local fishing sector, including decent work linked to fishing activities. SFPAs strengthen the EU's position in international and regional fishing organisations: in the case of Cook Islands, in particular, in the Western-Central Pacific Ocean Commission (WCPFC)⁴. Finally, fishing opportunities granted through SFPAs are based on the best available scientific advice and contribute to the improvement of compliance with international measures.

¹ OJ L 131, 20.05.2016, p. 3.

² OJ L 131, 20.05.2017, p. 10.

³ Fisheries Partnership Agreements with the EU and, respectively, the Federated States of Micronesia, Solomon Islands and Kiribati are currently dormant, since they have no implementing Protocol in force.

⁴ <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.

- **Consistency with other Union policies**

The negotiation of a new protocol with Cook Islands is in line with the EU's external action towards African, Caribbean and Pacific (ACP) countries, and in particular with the Union objectives regarding the respect of democratic principles, human rights.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the decision is provided by Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU), in Part Five on the Union's external action, Title V on international agreements, which sets out the procedure for negotiating and concluding agreements between the EU and third countries.

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

Not applicable, exclusive competence.

- **Proportionality**

The decision is proportional to the objective.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) and Article 218(4) of the TFEU.

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

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

The Commission carried out in 2019-2020 an ex-post evaluation of the current protocol to the SFPA EU/Cook Islands 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 Document⁵.

The evaluation concluded that the EU fishing industry (tuna species) is firmly interested in operating in 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 the needs of the various stakeholders, and to 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.

For Cook Islands the EU intervention adds value in terms of a multiannual certainty of budget income, an official platform for sectoral dialogue and direct exchanges with the EU, in terms of cooperation and a framework for joint monitoring and control of EU activities. The SFPA contribute to the promotion of responsible fishing practices, and gives access to a dedicated budget line (sectoral support) for financial support to implementation of national fisheries policy by Cook Islands.

⁵ [reference]

- **Stakeholder consultations**

Member States, industry representatives, international civil society organisations, as well as Cook Islands' fisheries administration and civil society, have been consulted as part of the evaluation. Consultations have also taken place in the framework of the Long Distance Advisory Council.

- **Collection and use of expertise**

Not applicable.

- **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 is included in the Sustainable Fisheries Partnership Agreement.

4. BUDGETARY IMPLICATIONS

The budgetary implications connected with the new Protocol include the payment of a financial contribution to the Cook Islands, which is compatible with the current Multiannual Financial Framework (MFF), in particular as regards allocations to the budget line⁶ for Sustainable Fisheries Partnership Agreements. The annual amounts for commitments and payments are established in the yearly budgetary procedure, including the reserve line for proposals 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 second or third quarter of 2020.

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

The Commission recommends that:

- The Council should authorise the Commission to open and conduct negotiations for the conclusion of a new protocol to the Sustainable Fisheries Partnership Agreement with the Government of Cook Islands;

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

⁶ Cf. Chapter 40 (reserve line 40 02 41) in line with the MFF inter-institutional agreement (2013/C 373/01).

- The Commission should conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;
- The Council should approve the negotiating directives annexed to this recommendation.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on a protocol to the Sustainable Fisheries Partnership Agreement between the European Union and 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(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened with a view to concluding a new protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands.
- (2) In case this is necessary to avoid a long interruption of fishing activities, authorisation should also be given to negotiate a limited prolongation of the current Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands¹,

HAS ADOPTED THIS DECISION:

Article 1

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

The Commission is also authorised to negotiate a limited prolongation of the current Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands.

¹ Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands (OJ L 131, 20.05.2016, p. 10).

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*