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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, 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 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 Mauritius

Delegations will find attached document COM(2021) 456 final.

Encl.: COM(2021) 456 final



EUROPEAN
COMMISSION

Brussels, 5.8.2021
COM(2021) 456 final

Recommendation for a

COUNCIL DECISION

**authorising the opening of 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 Mauritius**

{SWD(2021) 221 final} - {SWD(2021) 222 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 (FPA) with the Republic of Mauritius¹ in line with the needs of the Union fleet, Regulation (EU) No 1380/2013 on the Common Fisheries Policy² (the CFP Regulation) and the 19 March 2012 Council conclusions³ on a Communication from the Commission on the external dimension of the Common Fisheries Policy⁴.

• Consistency with existing policy provisions in the policy area

The current FPA with Mauritius entered into force on 28 January 2014 for a duration of 6 years and is tacitly renewable for additional periods of 3 years. The current 4-year Implementing Protocol⁵ entered into application on 8 December 2017 and will expire on 7 December 2021. It fixes the fishing opportunities for the Union fleet and the corresponding financial contribution to be paid by the Union and the ship-owners. It provides fishing opportunities targeting tuna and highly migratory species for EU vessels from four Member States (Spain, France, Italy and Portugal).

The annual EU public financial contribution to Mauritius amounts to EUR 220 000 for access, plus specific amounts of EUR 220 000 for fisheries policy support and EUR 135 000 for support for the deployment of maritime policy and ocean economy.

The Commission proposes to negotiate a new Implementing Protocol, taking full account of the CFP Regulation⁶.

The EU has developed a network of bilateral sustainable fisheries partnership agreements (SFPAs) in the Indian Ocean, for example with Seychelles and Madagascar. SFPAs help to promote the objectives of the CFP internationally, ensuring that the EU fleet's 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 better management of fishing resources and encourage governance by supporting the monitoring, control and surveillance of national and foreign fleets' activities and providing funding to fight illegal, unreported and unregulated (IUU) fishing and contribute to the sustainable development of the local fishing industry. SFPAs strengthen the EU's position in international and regional fishing organisations – in the case of Mauritius, the Indian Ocean Tuna Commission (IOTC)⁷.

¹ OJ L 79, 18.3.2014, p. 3.

² 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).

³ https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/agricult/129052.pdf

⁴ COM/2011/0424 final.

⁵ OJ L 279, 28.10.2017, p. 3.

⁶ Part IV, Title II.

⁷ The IOTC is an intergovernmental organisation responsible for the management of tuna and tuna-like species in the Indian Ocean; <https://iotc.org/>

- **Consistency with other Union policies**

The negotiation of a new Implementing Protocol with Mauritius is in line with the EU's external action in African, Caribbean and Pacific (ACP) countries, in particular with its objectives regarding the respect of democratic principles and human rights. It is also in line with the interim Economic Partnership Agreement (EPA) being applied by Mauritius, Seychelles, Zimbabwe, Madagascar and Comoros, and whose scope is being extended to other trade-related issues such as trade and sustainable development.

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 Part Five (the Union's external action), Title V (international agreements), which sets out the procedure for negotiating and concluding agreements with other 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 (4) TFEU.

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

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

In 2021, the Commission has carried out *ex post* evaluation of the current Protocol and *ex ante* evaluation of its possible renewal. Its conclusions are set out in a separate staff working document.

The evaluation concluded that the EU fishing sectors have a clear interest in fishing off Mauritius and that the renewal of the Protocol is in the interest of both parties. Furthermore, renewal would help strengthen monitoring, control and surveillance, and would contribute to improved governance of fisheries in the region.

For the EU, it is important to maintain an instrument allowing strong sectoral cooperation with a strategic player at sub-regional level, and more generally, strengthening the relationship with Mauritius. This will also help the EU to build alliances in the framework of the IOTC. For the EU fleet, including of its outermost regions in the Indian Ocean, this means maintaining access to an important fishing area under the jurisdiction of Mauritius for the deployment of harvesting strategies within a multi-year international legal framework. Moreover, the importance of Mauritius in terms of the processing of tuna caught in the Indian Ocean and exports of tuna products to the EU contributes to the relevance of the envisaged new protocol, both for the EU fishing industry and for the partner country. For the Mauritian authorities, the aim is to maintain relations with the EU, partly in order to strengthen ocean

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

- **Stakeholder consultations**

In the course of its evaluation, the Commission consulted Member States, industry representatives, international civil society organisations and the fisheries administration and civil society in Mauritius. Consultations have also taken place in the framework of the Long-Distance Fleet 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 including a clause in the protocol on the consequences of violations of human rights and democratic principles.

4. BUDGETARY IMPLICATIONS

The budgetary implications of a new protocol include the payment of a financial contribution to Mauritius. The budgetary allocations in terms of commitment and payment appropriations would have to be included each year in the budget line for SFPAs (08 05 01) and be compatible with financial programming under the 2022-2027 multiannual financial framework (MFF). The annual amounts for commitments and payments are established in the yearly budgetary procedure, including the reserve line for protocols that have yet to enter into force at the beginning of the year⁸.

5. OTHER ELEMENTS

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

Negotiations are expected to open during the third quarter of 2021.

- **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 Fisheries Partnership Agreement with Mauritius;
- the Commission be nominated as EU negotiator in this context;

⁸ Chapter 40 (reserve line 40 02 41), in line with the MFF inter-institutional agreement ((2013/C 373/01).

- the Commission conduct the negotiations in consultation with the special committee, in accordance with the TFEU;
- the Council approve the negotiating directives in annex.

Recommendation for a

COUNCIL DECISION

authorising the opening of 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 Mauritius

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 negotiations should be opened with a view to concluding a new Implementing Protocol to the Fisheries Partnership Agreement with the Republic of Mauritius¹,

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 Government of the Republic of Mauritius.

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*

¹ OJ L 79, 18.3.2014, p. 3.