



Council of the
European Union

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PECHE 350

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands

COUNCIL DECISION (EU) 2021/...

of ...

on the conclusion, on behalf of the European Union, of the Protocol on the implementation of 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 43, in conjunction with Article 218(6), second subparagraph, point (a)(v) and Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹⁺,

¹ Consent of ... (not yet published in the Official Journal).

⁺ OJ: please complete the footnote above.

Whereas:

- (1) The Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands¹ (“the Agreement”) was concluded by Council Decision (EU) 2017/418².
- (2) In accordance with Council Decision (EU) 2021/...³⁺, the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands (“the Protocol”) was signed on ...⁺⁺, subject to its conclusion at a later date.

¹ OJ L 131, 20.5.2016, p. 3.

² Council Decision (EU) 2017/418 of 28 February 2017 on the conclusion on behalf of the European Union of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands and the Implementation Protocol thereto (OJ L 64, 10.3.2017, p. 1).

³ Council Decision (EU) 2021/... of ... on the signing, on behalf of the European Union, and provisional application of the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands (OJ L [...], [...], p. [...]).

⁺ OJ: please insert in the text the number of the Decision contained in document ST 12627/21 and in the corresponding footnote – the number, date of adoption and publication reference of that Decision.

⁺⁺ OJ: please insert the date of signature of the Protocol.

- (3) The Protocol aims to enable the Union and the Government of the Cook Islands to continue working together to promote a sustainable fisheries policy and the sound exploitation of fisheries resources in the Cook Islands' fishery waters, in line with the objective of conservation of marine biological resources recognized in Union law, and to allow Union vessels to fish in those waters.
- (4) The Protocol should be approved.
- (5) Article 6 of the Agreement sets up a Joint Committee responsible for the monitoring of the application of the Agreement and its implementing Protocol. Furthermore, pursuant to Article 5 of the Protocol, the Joint Committee may approve certain amendments to the Protocol. In order to facilitate the approval of such amendments, the Commission should be empowered, subject to specific substantive and procedural provisions and conditions, to approve them on behalf of the Union under a simplified procedure.
- (6) The Union's position on proposed amendments to the Protocol should be established by the Council. The proposed amendments should be approved unless a blocking minority of Member States in accordance with Article 16(4) of the Treaty on European Union objects to those amendments.

- (7) In view of the economic importance of the Union fishing activities in the Cook Islands' fishing areas and in view of the need to avoid interrupting those activities upon the expiration of the current Protocol on 13 November 2021, the Protocol should enter into force as soon as possible.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725 of the European Parliament and of the Council¹ and delivered an opinion on 3 November 2021,

HAS ADOPTED THIS DECISION:

¹ 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).

Article 1

The Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Cook Islands (“the Protocol”) is hereby approved on behalf of the Union¹⁺.

Article 2

The President of the Council shall, on behalf of the Union, give the notification provided for in Article 12 of the Protocol².

Article 3

In accordance with the provisions and conditions set out in the Annex to this Decision, the Commission shall be empowered to approve, on behalf of the Union, amendments to the Protocol to be adopted by the Joint Committee.

¹ The text of the Protocol is published in OJ L

⁺ OJ: please insert in the footnote above the OJ reference of the Protocol contained in document ST 12633/21.

² The date of entry into force of the Protocol will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

Article 4

This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President

ANNEX

PROCEDURE FOR THE APPROVAL OF AMENDMENTS TO THE PROTOCOL TO BE ADOPTED BY THE JOINT COMMITTEE

Where the Joint Committee is to adopt amendments to the Protocol in accordance with Article 6(3) of the Agreement and Article 5 of the Protocol, the Commission shall be empowered to approve the proposed amendments, on behalf of the Union, under the following conditions:

1. The Commission shall ensure that the approval on behalf of the Union:
 - (a) is in accordance with the objectives of the Common fisheries policy;
 - (b) is consistent with the relevant rules adopted by regional fisheries management organisations and takes account of joint management by coastal States;
 - (c) takes account of the latest statistical, biological and other relevant information sent to the Commission.

2. Before the Commission approves the proposed amendments on behalf of the Union, the Commission shall submit them to the Council in sufficient time before the relevant meeting of the Joint Committee.
3. The Council shall assess whether the proposed amendments comply with the criteria laid down in point 1.
4. Unless a number of Member States equivalent to a blocking minority of the Council in accordance with Article 16(4) of the Treaty on European Union object to the proposed amendments, the Commission shall approve them on behalf of the Union. If there is such a blocking minority, the Commission shall reject the proposed amendments on behalf of the Union.

5. If, in the course of subsequent meetings of the Joint Committee, including on-the-spot meetings, it is impossible to reach an agreement, the matter shall be referred back to the Council in order for the Union position to take account of new factors, in accordance with the procedure set out in points 2, 3 and 4.
6. The Commission is invited to take, in due time, any steps necessary as a follow-up to the decision of the Joint Committee, including, where appropriate, publishing the relevant decision in the *Official Journal of the European Union* and submitting any proposal necessary for the implementation of that decision.

As regards other matters which do not concern amendments to the Protocol, as provided for in Article 6 of the Agreement, the position to be adopted by the Union in the Joint Committee shall be determined in accordance with the Treaties and established working practices.
