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COM(2019) 171 final

2019/0090 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024)**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

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

The Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau entered into force on 15 April 2008. The previous Protocol to the Agreement entered into force on 24 November 2014 and expired on 23 November 2017.

On the basis of the relevant negotiating directives<sup>1</sup>, the Commission conducted negotiations with the Government of the Republic of Guinea-Bissau with a view to concluding a new protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau<sup>2</sup>. Following these negotiations, a new Protocol was initialled on 15 November 2018. The Protocol covers a period of five years from the date of its provisional application, i.e. from the date on which it was signed, as stated in Article 16 thereof.

- **Consistency with existing provisions in the policy area**

In accordance with the priorities of the fisheries policy reform<sup>3</sup>, the new Protocol provides fishing opportunities for Union vessels in Guinea-Bissau waters, on the basis of the best available scientific advice and following the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This new Protocol takes into account the results of an evaluation of the previous Protocol (2014-2017) and of a forward-looking assessment of whether a new Protocol should be concluded. Both were carried out by external experts. The Protocol will also enable the European Union and the Republic of Guinea-Bissau to work more closely on promoting sound exploitation of fishery resources in Guinea-Bissau waters and to support efforts by Guinea-Bissau to develop its blue economy, in the interests of both parties.

The Protocol provides for fishing opportunities in the following categories:

- (a) shrimp freezer trawlers;
- (b) fin-fish and cephalopod freezer trawlers;
- (c) small pelagic trawlers;
- (d) tuna freezer seiners and longliners;
- (e) pole-and-line tuna vessels.

For the first three categories, fishing opportunities are expressed in terms of fishing effort (GRT) for the first two years and in terms of catch limit (TAC) for the last three years.

- **Consistency with other Union policies**

The negotiation of a new protocol to the Fisheries Partnership Agreement with Guinea-Bissau forms part of the Union's external action in relation to ACP countries and takes into account, in particular, Union objectives on respecting democratic principles and human rights.

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<sup>1</sup> Adopted by the Environment Council on 28 February 2017.

<sup>2</sup> OJ L 342, 17.12.2007, p. 5.

<sup>3</sup> OJ L 354, 28.12.2013, p. 22.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis chosen is the Treaty on the Functioning of the European Union, of which Article 43(2) establishes the Common Fisheries Policy and Article 218(6)(a)(v) the relevant stage of the procedure for the negotiation and conclusion of agreements between the Union and third countries.

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

The proposal falls under the exclusive competence of the European Union.

- **Proportionality**

The proposal is proportionate to the objective of establishing a legal, environmental, economic and social governance framework for fishing activities carried out by Union vessels in third country waters, as set out in Article 31 of the Regulation establishing the Common Fisheries Policy. It complies with those provisions as well as with those on financial assistance to third countries laid down in Article 32 of that Regulation.

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

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

In 2016, the Commission carried out an *ex post* evaluation of the then Protocol to the Fisheries Partnership Agreement between the European Union and Guinea-Bissau, and an *ex ante* evaluation of a possible renewal of the Protocol. The conclusions of the evaluation are presented in a separate working document<sup>4</sup>.

The evaluation report concluded that the EU tuna fishing sector has a strong interest in fishing in Guinea-Bissau and that a renewal of the Protocol would help strengthen monitoring, control and surveillance and contribute to improved fisheries governance in the region.

- **Consultation of interested parties**

The Member States, industry representatives and international civil society organisations, as well as Guinea-Bissau's fisheries administration and civil society representatives, were consulted as part of the evaluation. Consultations also took place in the framework of the Long Distance Advisory Council.

- **Collection and use of expertise**

The Commission used an independent consultant for the *ex post* and *ex ante* evaluations, in accordance with the provisions of Article 31(10) of the Regulation establishing the Common Fisheries Policy.

## **4. BUDGETARY IMPLICATIONS**

The annual financial contribution from the European Union is EUR 15 600 000, based on:

(a) an annual amount for access to fishery resources for the categories provided for in the Protocol, set at EUR 11 600 000 per year for the entire duration of the Protocol;

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<sup>4</sup> SWD (2017) 19 final, 18.1.2017.

(b) support for the development of the sectoral fisheries policy and the blue economy of Guinea-Bissau for an amount of EUR 4 000 000 per year for the entire duration of the Protocol. This support meets the objectives of Guinea-Bissau's national policy on the sustainable management of its continental and maritime fishery resources for the entire duration of the Protocol.

The annual amount for commitment and payment appropriations is established during the annual budgetary procedure, including for the reserve line for protocols not having entered into force at the beginning of the year<sup>5</sup>.

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<sup>5</sup> In accordance with the Interinstitutional Agreement on cooperation in budgetary matters (2013/C 373/01).

Proposal for a

## COUNCIL DECISION

### **on the conclusion of the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024)**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof, in conjunction with Article 218(6)(a)(v), and Article 218(7),

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

Whereas:

- (1) On 17 March 2008, the Council adopted Regulation (EC) No 241/2008<sup>2</sup> on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (hereinafter ‘the Agreement’)<sup>3</sup>, which entered into force on 15 April 2008, was then tacitly renewed and remains in force.
- (2) The previous Protocol to the Agreement expired on 23 November 2017.
- (3) The Commission has negotiated, on behalf of the European Union, a new Protocol on the implementation of the Agreement (hereinafter ‘the Protocol’). The Protocol was initialled at the end of those negotiations on 15 November 2018.
- (4) In accordance with Council Decision 2019/.../EU<sup>4</sup>, the Protocol was signed on [insert date of signature].
- (5) The Protocol has been applied provisionally from the date of its signature.
- (6) The objective of the Protocol is to enable the European Union and the Republic of Guinea-Bissau to work more closely on promoting a sustainable fisheries policy, sound exploitation of fishery resources in Guinea-Bissau waters and efforts by Guinea-Bissau to develop a blue economy.
- (7) The Protocol should be approved on behalf of the European Union.
- (8) Article 10 of the Agreement establishes the Joint Committee responsible for monitoring its implementation. Furthermore, the Joint Committee may approve amendments to the Protocol in certain cases. In order to facilitate the approval of such amendments, the Commission should be empowered, subject to specific conditions, to approve them under a simplified procedure,

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> Council Regulation (EC) No 241/2008 of 17 March 2008 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (OJ L 75, 18.3.2008, p. 49).

<sup>3</sup> OJ L 342, 27.12.2007, p. 5.

<sup>4</sup>

HAS ADOPTED THIS DECISION:

*Article 1*

The Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024) (hereinafter ‘the Protocol’) is hereby approved on behalf of the Union.

The text of the Protocol is attached to this Decision as Annex I.

*Article 2*

In accordance with the provisions and conditions laid down in Annex II to this Decision, the Commission is authorised to approve, on behalf of the Union, the amendments to the Protocol adopted by the Joint Committee established under Article 10 of the Agreement.

*Article 3*

The President of the Council shall designate the person(s) empowered to carry out, on behalf of the Union, the notifications provided for in Article 17 of the Protocol, in order to express the Union’s consent to be bound by the Protocol.

*Article 4*

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council  
The President*