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DRAFT RECOMMENDATION

on the proposal for a Council decision on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement
(COM(2018)0678 – C8-0000/2018 – 2018/0349(NLE))

Committee on Fisheries

Rapporteur: Alain Cadec

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement

(COM(2018)0678 – C8-0000/2018 – 2018/0349(NLE))

(Consent)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2018)0678),
 - having regard to the draft Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and an exchange of letters accompanying the said Agreement,
 - having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a)(v), and (7), of the Treaty on the Functioning of the European Union (C8-0000/2018),
 - having regard to Rule 99(1) and (4) and Rule 108(7),
 - having regard to the recommendation of the Committee on Fisheries and the opinions of the Committee on Development and the Committee on Budgets (A8-0000/2018),
1. Gives its consent to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council, the Commission and the governments and parliaments of the Member States and of the Kingdom of Morocco.

EXPLANATORY STATEMENT

General considerations

The European Union and the Kingdom of Morocco have negotiated a new sustainable fisheries partnership agreement in order to strengthen their bilateral relations and to establish a dialogue on fisheries governance. More broadly, the fisheries partnership agreement is part of a relationship under the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part, which entered into force in 2000. In its judgments Nos C-104/16 P and C-266/16, the Court of Justice of the European Union ruled on the non-inclusion of the territory of Western Sahara within the scope of, respectively, the EU-Morocco reciprocal liberalisation agreement on agricultural products and fishery products and the sustainable fisheries partnership agreement.

The first fisheries agreement between the EU and Morocco was concluded in 1995. In 1999, however, the parties failed to agree on renewal of the protocol, and there was no agreement until the current Fisheries Partnership Agreement came into force in February 2007.

The first Protocol to the Fisheries Partnership Agreement ran until 27 February 2011 and provided for a financial contribution of EUR 36.1 million, of which EUR 13.5 million was earmarked for supporting Morocco's fisheries policy. Vessels from 11 EU Member States were able to obtain fishing permits from Morocco under the agreement and this protocol.

A second protocol was negotiated in February 2011 and provisionally applied until December 2011, when Parliament decided not to consent to its conclusion. A third protocol was concluded in July 2014 and ran until 14 July 2018. The agreement signed with Morocco is a mixed agreement, securing access to various species of fish. In exchange, the EU makes a financial contribution, covering both access rights for EU vessels to the partner country's territorial waters and the financing of support for the fisheries sector.

Court of Justice ruling

In its judgment of 27 February 2018, the Court confirmed the validity of the fisheries agreement and of the protocol applicable from 15 July 2014 to 14 July 2018. However, it stated that:

‘[...] the concept of “territory of Morocco”, in Article 11 of the Fisheries Partnership Agreement, should be construed in the same way as the concept of “territory of the Kingdom of Morocco”, in Article 94 of the Association Agreement. The Court has previously held that the latter concept must be construed as referring to the geographical area over which the Kingdom of Morocco exercises the fullness of the powers granted to sovereign entities by international law, to the exclusion of any other territory, such as that of Western Sahara (judgment of 21 December 2016, Council v Front Polisario, C-104/16 P, EU:C:2016:973, paragraphs 95 and 132). [...] That being the case, the territory of Western Sahara is not covered by the concept of ‘territory of Morocco’ within the meaning of Article 11 of the Fisheries Partnership Agreement.’

The Court went on to point out that the Fisheries Partnership Agreement was applicable to the ‘waters falling within the sovereignty or jurisdiction’ of the Kingdom of Morocco, and that the waters over which a coastal state was entitled to exercise sovereignty or jurisdiction, under the Convention on the Law of the Sea, were limited exclusively to the waters adjacent

to its territory and forming part of its territorial sea or of its exclusive economic zone. The Court therefore ruled that, 'taking account of the fact that the territory of Western Sahara does not form part of the territory of the Kingdom of Morocco, the waters adjacent to the territory of Western Sahara are not part of the Moroccan fishing zone referred to in the Fisheries Partnership Agreement'.

In its judgment No 104-16 P, the Court had found that two conditions were critical: explicit mention of Western Sahara in the agreement text and the consent of its people. The Council of the European Union has also added a third criteria: that the agreement should benefit the local population.

Negotiation of a new Agreement and Protocol with the Kingdom of Morocco

The Council authorised the Commission to open negotiations with a view to amending the Fisheries Partnership Agreement with Morocco. The stated negotiating aim was the amendment of the Fisheries Partnership Agreement between the European Communities and the Kingdom of Morocco and the conclusion of a Protocol to that agreement in line with Regulation (EU) No 1380/2013 on the Common Fisheries Policy and with the Council Conclusions of 19 March 2012 on the Commission Communication of 13 July 2011 on the external dimension of the Common Fisheries Policy.

The agreement is intended to promote sustainable and responsible fisheries and to contribute to the strict observance of international law while securing mutual benefits for the European Union and Morocco, The new protocol gives EU vessels access to the waters covered by the agreement and the protocol in force, and to the adjacent waters of the non-autonomous territory of Western Sahara, and ensures that they have the requisite permits.

In pursuit of its remit from the Council, the Commission opened negotiations with the Moroccan authorities with a view to concluding a new fisheries agreement. The Sustainable Fisheries Partnership Agreement between the EU and Morocco was initialled in July.

The Commission has explicitly included in the new agreement (Article 1h) the stipulation that the fishing zones covered by it are 'the waters of the Eastern Central Atlantic Ocean between the parallels 35° 47' 18" north and 20° 46' 13" north, including the adjacent waters of Western Sahara, covering all management areas'.

In negotiating the new agreement, the Commission took the view that its geographical scope could be extended to the territory of Western Sahara, without contradicting the conclusions in the Court of Justice ruling, subject to three conditions. First, there had to be explicit provision to that effect in the text. Secondly, the consent of the populations concerned had to be obtained. And lastly, the agreement had to benefit of the local populations. The third condition is essential in the case of the fisheries agreement, given that more than 90% of the catch by the EU fleet is taken in the waters adjacent to Western Sahara¹.

Consulting the populations concerned

To that end, the European External Action Service (EEAS) and the Commission conducted a process of consultation with the local populations of Western Sahara and with interested parties. Most of the people they consulted were in favour of a new fisheries agreement and of the renewal of the protocol. They pointed to the positive impact of the partnership on the development of local businesses in the fisheries sector.

¹See study commissioned by the Committee on Fisheries on fishing off the Atlantic coast of Andalusia.

Others, notably the Polisario Front, which the UN considers as representing the people of Western Sahara and which is a party to the peace process, did not wish to take part in the consultation. In technical discussions with the Polisario Front it became clear that it opposed the agreement in principle.

Benefits for the fisheries sector in Western Sahara

The fisheries sector in Western Sahara is concentrated in the areas around Laâyoune, Boujdour and Dakhla. According to information from Moroccan sources, there are 141 companies processing fisheries products in these conurbations, employing approximately 90 000 people directly or indirectly. The estimated turnover of the fisheries processing business is MAD 4.9 billion (approximately EUR 450 million), of which exports – 60% of them to the EU – account for MAD 2.6 billion (approximately EUR 240 million).

Fisheries and fish processing are the most important industries in the territory in terms of employment and exports. Most jobs, however, are still in fishing, rather than processing, because there are not enough processing plants to optimise the value of the catch. Fisheries processing is thus one of the industries with the greatest potential for growth and job creation in Western Sahara.

The EU has contributed to the development of fisheries processing in the territory. In application of the sectoral support provisions in the Protocol to the EU-Morocco Fisheries Partnership Agreement, the Union has also financed numerous measures including the construction of infrastructure and plant to help boost competitiveness and employment in the fisheries processing industry.

Main features of the Agreement and the Protocol

The parties agree that Union fishing vessels are to catch only the allowable catch surplus referred to in Article 62(2) and (3) of the United Nations Convention on the Law of the Sea, as identified in a clear and transparent manner on the basis of available scientific advice. The parties will cooperate in monitoring changes in the state of the resources in the fishing zone. To that end, a joint scientific meeting is to be established, to be held once a year alternately in the Union and in Morocco.

On the basis of the conclusions of the scientific meeting and in the light of the best available scientific advice, the parties will adopt, by agreement, measures to manage the fisheries resources sustainably.

Duration

While the current agreement will remain in force for an indefinite period, the protocol will apply for four years from the date of its entry into force or, as the case may be, its provisional application.

Fishing opportunities

- (a) for the category ‘Small-scale pelagic fishing with seines, north’: 22 vessels, hereinafter referred to as ‘Category 1’;
- (b) for the category ‘Small-scale fishing with bottom longlines, north’: 35 vessels, hereinafter referred to as ‘Category 2’;
- (c) for the category ‘Small-scale pole-and-line fishing, south’: 10 vessels, hereinafter

referred to as ‘Category 3’;

- (d) for the category ‘Demersal fishing with bottom trawls and bottom longlines, south’: 16 vessels, hereinafter referred to as ‘Category 4’;
- (e) for the category ‘Small-scale tuna fishing with poles’: 27 vessels, hereinafter referred to as ‘Category 5’;
- (f) for the category ‘Industrial pelagic or semi-pelagic trawling and purse seining’: an annual quota of:
 - (i) 85 000 tonnes for the first year of application, 18 vessels,
 - (ii) 90 000 tonnes for the second year of application, 18 vessels,
 - (iii) 100 000 tonnes for the third and fourth years of application, 18 vessels,hereinafter referred to as ‘Category 6’.

Financial contribution

1. The total annual value of the Protocol is estimated at:

1.1. EUR 48 100 000 for the first year of application. Within that total amount:

- (a) EUR 37 000 000 from the financial contribution referred to in Article 12 of the Fisheries Agreement, allocated as follows:
 - (i) EUR 19 100 000 as financial compensation for access by Union vessels to the fishing zone, as referred to in Article 12(2)(a) of the Fisheries Agreement;
 - (ii) EUR 17 900 000 as sectoral support as referred to in Article 12(2)(c) of the Fisheries Agreement;
- (b) EUR 11 100 000 corresponding to the estimated fees payable by ship-owners, as referred to in Article 12(2)(b) of the Fisheries Agreement.

1.2. EUR 50 400 000 for the second year of application. Within that total amount:

- (a) EUR 38 800 000 from the financial contribution referred to in Article 12 of the Fisheries Agreement, allocated as follows:
 - (i) EUR 20 000 000 as financial compensation for access by Union vessels to the fishing zone, as referred to in Article 12(2)(a) of the Fisheries Agreement;
 - (ii) EUR 18 800 000 as sectoral support as referred to in Article 12(2)(c) of the Fisheries Agreement;
- (b) EUR 11 600 000 corresponding to the estimated fees payable by ship-owners, as referred to in Article 12(2)(b) of the Fisheries Agreement.

1.3. EUR 55 100 000 for the third and fourth years of application. Within that total amount:

- (a) EUR 42 400 000 from the financial contribution referred to in Article 12 of the Fisheries Agreement, allocated as follows:
 - (i) EUR 21 900 000 as financial compensation for access by Union vessels to the fishing zone, as referred to in Article 12(2)(a) of the Fisheries Agreement;
 - (ii) EUR 20 500 000 as sectoral support as referred to in Article 12(2)(c) of the Fisheries Agreement;

(b) EUR 12 700 000 corresponding to the estimated fees payable by ship-owners, as referred to in Article 12(2)(b) of the Fisheries Agreement.