



Brussels, 25.4.2018
COM(2018) 240 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of a Sustainable Fisheries Partnership Agreement and a protocol with the Republic of Madagascar

{SWD(2018) 143 final} - {SWD(2018) 144 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

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

The Commission proposes to negotiate a new Sustainable Fisheries Partnership Agreement and a protocol with Republic of Madagascar which meets the needs of the Union fleet and is in line with Regulation (EU) No1380/2013 on the Common Fisheries Policy (CFP) 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 current Fisheries Partnership Agreement (FPA) between European Union and Madagascar was concluded on 1st January 2007¹. It is hereby proposed to negotiate a new Sustainable Fisheries Partnership Agreement in order to integrate some provisions included in Regulation (EU) No1380/2013², which are not covered by the current FPA. The current 4-year Protocol³ to the FPA entered into application on 1st January 2015 and will expire on 31th December 2018. It fixes the fishing opportunities provided to the Union fleet and the corresponding financial contribution paid by the Union and the ship-owners. The annual EU public financial contribution due to Madagascar amounts to 1 487 500 EUR⁴, out of which 700 000 EUR are earmarked for sectoral support.

The FPA with Madagascar provides fishing opportunities targeting tuna and highly migratory species for EU vessels from 4 Member States (Spain, France, Portugal and Italy). The European Union already has a developed network of bilateral Sustainable Fisheries Partnership Agreements (SFPAs) in the Indian Ocean, namely with Seychelles and Mauritius.

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 partner, promote transparency and sustainability for a better management of fishing resources and 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 to contribute to the sustainable development of local fishing industry. SFPAs strengthen the European Union's position in international and regional fishing organisations, in particular in the Indian Ocean Tuna Commission (IOTC), 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 Agreement and protocol with Madagascar 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.

¹ OJ L 331 of 17.12.2007, p.3

² Ref. Reg. (EU) No 1380/2013, Part IV, Title II.

³ For the last 2 years of the Protocol. For the two previous years it was 1 566 250 EUR.

⁴ Cf Chapter 40 (reserve line 40 02 41) in line with the MFF interinstitutional agreement (2013/C373/01).

2. LEGAL ELEMENTS OF THE RECOMMENDATION

- **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 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 2017 - 2018 an *ex-post* evaluation of the current protocol to the FPA Madagascar 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 Document.

The evaluation concluded that the EU tuna fishing sectors are firmly interested in fishing in Madagascar and that a renewal of the Protocol would help strengthen monitoring, control and surveillance and contribute to improved governance of the fisheries in the region. For the EU, it is important to maintain an instrument allowing a deep sectoral cooperation with a major player in ocean governance at the sub-regional level because of the extent of its fishing area under its jurisdiction. Furthermore, for the EU fishing fleet, particularly tuna seiners and long-liners based in Reunion Island, this means maintaining access to an important fishing area for the deployment of harvesting strategies under a multi-year international legal framework. For the Malagasy authorities, the aim is to continue relations with the EU for strengthening ocean governance, benefiting from dedicated sectoral support that provides for multi-year funding opportunities

- **Stakeholder consultations**

Member States, industry representatives, international civil society organisations, as well as Madagascar's fisheries administration and civil society were 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**

The negotiating directives proposed as an annex to the decision recommend authorising the opening of negotiations including a clause on the consequences of violations of human rights and democratic principles.

4. BUDGETARY IMPLICATIONS

A new protocol will require the payment of a financial contribution to Madagascar which is compatible with the 2014-2020 Multiannual Financial Framework (MFF), in particular as regards allocations to the budget line 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 quarter of 2017.

- **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 Sustainable Fisheries Partnership Agreement and a protocol with the Republic of Madagascar;

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

- 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.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218 paragraphs 3 and 4,

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding a new Sustainable Fisheries Partnership Agreement and a protocol with Madagascar,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to open negotiations with Madagascar, with a view to conclude a new Sustainable Fisheries Partnership Agreement and a protocol with Madagascar.

Article 2

The negotiations shall be conducted in consultation with the Council Working Party on External Fisheries Policy and on the basis of the negotiating directives set out in the annex to this Decision.

Article 3

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*