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COMMISSION

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2014/0114 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of the Protocol setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The Council authorised the European Commission to negotiate, on behalf of the European Union, the renewal of the Protocol to the Fisheries Partnership Agreement with the Democratic Republic of São Tomé and Príncipe. At the end of the negotiations a new draft protocol was initialled by the negotiators on 19 December 2013. The new Protocol covers a period of four years from the date of the provisional application laid down in Article 14, that being the date on which this new Protocol was signed.

The main purpose of the Protocol to the Agreement is to grant fishing opportunities to European Union vessels in São Toméan waters, in compliance with the best scientific opinions available and the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), within the limits of the available surplus. The Commission based itself in part on the results of an ex-post evaluation of the previous Protocol carried out by external experts.

The aim is also to strengthen cooperation between the European Union and the Democratic Republic of São Tomé and Príncipe with a view to establishing a sustainable fisheries policy and sound exploitation of fisheries resources in the São Toméan fishing zone, in the interests of both parties.

The Protocol provides for fishing opportunities in the following categories:

– 28 tuna seiners

– 6 surface longliners.

The Commission proposes, on this basis, that the Council authorise the signing and provisional application of the new Protocol.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The interested parties were consulted during the evaluation of the Protocol for the period 2011-14. Experts from the Member States were also consulted in technical meetings. These consultations led to the conclusion that it would be beneficial to maintain a fishing protocol with the Democratic Republic of São Tomé and Príncipe.

3. LEGAL ELEMENTS OF THE PROPOSAL

This procedure is being initiated in parallel with the procedures relating to the Council Decision authorising the signature and provisional application of the Protocol itself, as well as with the Council Regulation concerning the allocation of the fishing opportunities between the Member States of the EU.

4. BUDGETARY IMPLICATION

The annual financial contribution is EUR 710 000 the first three years and EUR 675 000 the fourth year, based on a) a reference tonnage of 7 000 tonnes, for which an amount linked to access has been set at EUR 385 000 the first three years and EUR 350 000 the fourth year, and b) support for the development of the sectoral fisheries policy of the Democratic Republic of São Tomé and Príncipe, amounting to EUR 325 000. This support meets the objectives of the national fisheries policy and particularly the needs of the Democratic Republic of São

Tomé and Príncipe in terms of providing support for small-scale fishing and fighting illegal fishing.

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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 43(2), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 23 July 2007, the Council adopted Regulation (EC) No 894/2007[1] on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community (the 'Agreement').

(2) On 12 July 2011, the Council adopted Decision 2011/420/EU[2] on the conclusion of the Protocol[3] setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Democratic Republic of São Tomé and Príncipe. That Protocol covers a period of three years and expires on 12 May 2014.

(3) The Union negotiated a new Protocol with São Tomé and Príncipe for a period of four years, providing European Union vessels with fishing opportunities in the waters over which the Democratic Republic of São Tomé and Príncipe has sovereignty or jurisdiction in respect of fisheries.

(4) In order to guarantee the continuation of fishing activities by vessels of the European Union, provisions is made for the new Protocol to apply provisionally, pending completion of the procedures necessary for its conclusion. This provisional application will take effect from the date of its signature but not before the date of expiry of the previous Protocol.

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe is hereby authorised, subject to the conclusion of the said Protocol.

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1 OJ L 205, 7.8.2007, p. 35.
2 OJ L 188, 19.7.2011, p. 1.
3 OJ L 136, 24.5.2011, p. 5.

The text of the Protocol is attached to this Decision.

Article 2

The Secretariat-General of the Council shall establish the instruments of full powers authorising the person(s) indicated by the negotiator of the Protocol to sign the Protocol, subject to its conclusion.

Article 3

The Protocol shall be applied provisionally, in accordance with Article 14 thereof, from the date of its signature, and from 13 May 2014 at the earliest, pending completion of the procedures necessary for its conclusion.

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

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

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1.2. Policy area(s) concerned in the ABM/ABB structure

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LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Council Decision on the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Democratic Republic of São Tomé and Príncipe

1.2. Policy area(s) concerned in the ABM/ABB structure[4]

11. –Maritime affairs and fisheries policies

11.03 – Compulsory contributions to regional fisheries management organizations (RFMOs) and other international organisations and sustainable fisheries agreements (SFAs)

1.3. Nature of the proposal/initiative

☐ The proposal/initiative relates to **a new action**

☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action**[5]

X The proposal/initiative relates to **the extension of an existing action**

☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

The negotiation and conclusion of fisheries agreements with third countries meets the general objective of giving EU fishing vessels access to fishing zones located in third countries' Exclusive Economic Zones (EEZ) and developing partnership with those countries with a view to strengthening the sustainable exploitation of fishery resources outside EU waters.

The Fisheries Partnership Agreements (FPAs) also ensure coherence between the principles governing the Common Fisheries Policy and the commitments made under other European policies (sustainable use of third-country resources, combating illegal, unreported and unregulated (IUU) fishing, integration of partner countries into the global economy and better political and financial governance of fisheries).

1.4.2. Specific objective(s) and ABM/ABB activity(ies) concerned

Specific Objective 1:

To contribute to sustainable fishing in non-EU waters, maintain a European presence in distant-water fisheries and protect the interests of the European fisheries sector and consumers by negotiating and concluding FPAs with coastal states, consistent with other European policies.

ABM/ABB activity(ies) concerned:

[4] ABM: Activity-Based management – ABB: Activity-Based Budgeting.

[5] As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

Maritime affairs and fisheries policies: To establish a governance framework for fishing activities carried out by Union fishing vessels in third country waters (SFAs) (budget line 11.0301)

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The conclusion of the Protocol will help maintain the fishing opportunities for EU vessels in the São Toméan fishing zone.

The Protocol will also contribute to better management and conservation of fishery resources, through financial support (sectoral support) for the implementation of programmes adopted at national level by the partner country, in particular as regards monitoring and combating illegal fishing.

1.4.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

Rates of utilisation of fishing opportunities (annual uptake of fishing authorisations as a percentage of availability under the Protocol);

Gathering and analysing data on catches and the commercial value of the Agreement;

Contribution to employment and to added value in the EU and to stabilising the EU market (in aggregate with other FPAs);

Number of technical meetings and meetings of the Joint Committee.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term

The Protocol for the period 2011-2014 expires on 13 May 2014. It is intended that the new Protocol will apply provisionally from the date of signature, and from 13 May 2014 at the earliest. To secure continuity of fishing operations, a procedure for adoption by the Council of a Decision on the signing and provisional application of the Protocol has been launched in parallel with this procedure.

The new Protocol will provide a framework for the fishing activities of the European fleet in the São Toméan fishing zone and will authorise European vessel owners to apply for fishing licences allowing them to fish in São Toméan waters. In addition, the new Protocol enhances cooperation between the EU and São Tomé and Príncipe, with a view to promoting the development of a sustainable fishing policy. It provides, in particular, for vessels to be monitored via VMS and for the electronic transmission of catch data. Sectoral support has been strengthened to help the Democratic Republic of São Tomé and Príncipe with its national fisheries strategy and in the fight against IUU fishing.

1.5.2. Added value of EU involvement

As regards this new Protocol, failure to act by the EU would allow the emergence of private agreements which would not guarantee sustainable fisheries. The European Union also hopes that with this Protocol, the Democratic Republic of São Tomé and Príncipe will continue to cooperate effectively with the EU with regard to sustainable fishing.

1.5.3. Lessons learned from similar experiences in the past

Analysis of catches under the previous Protocol has led the Parties to maintain the reference tonnage. Sectoral support has been strengthened taking account of the

priorities of the national fisheries strategy and requirements in terms of building the capacity of the São Toméan fishing authorities.

1.5.4. Compatibility and possible synergy with other appropriate instruments

Funds paid out under FPAs constitute fungible revenue in the budgets of the third-country partners. However, allocating some of those funds for implementing measures as part of the country's sectoral policy is a condition for the conclusion and monitoring of FPAs. These financial resources are compatible with other sources of funding from other providers of international funding for carrying out projects and/or programmes at national level in the fisheries sector.

1.6. Duration and financial impact

X Proposal/initiative of **limited duration**

– X Proposal/initiative in force from the date of signature of the Protocol and from 13 May 2014 at the earliest, for a duration of four years.

– X Financial impact from 2014 to 2017

☐Proposal/initiative of **unlimited duration**

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Management mode(s) envisaged[6]

From the 2014 budget

X **Direct management** by the Commission

– X By its departments, including by its staff in the Union delegations;

– ☐by the executive agencies

☐ **Shared management** with Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

– ☐third countries or the bodies they have designated;

– ☐international organisations and their agencies (please specify);

– ☐the EIB and the European Investment Fund;

– ☐bodies referred to in Articles 208 and 209 of the Financial Regulation;

– ☐public law bodies;

– ☐bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;

– ☐bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;

– ☐persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the "Comments" section.*

Comments

[6] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: http://www.cc.cec/budg/man/budgmanag/budgmanag_en.html.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions

The Commission (DG MARE, in collaboration with its fisheries counsellor in Gabon and the European Union's Delegation in Libreville) will ensure regular monitoring of the implementation of this Protocol, particularly as regards operators' use of fishing opportunities and in terms of catch data.

The Fisheries Partnership Agreement provides for at least one annual meeting of the Joint Committee, at which the Commission and the Democratic Republic of São Tomé and Príncipe review the implementation of the Agreement and the Protocol thereto and, if necessary, adjust the programming and, where applicable, the financial contribution.

2.2. Management and control system

2.2.1. Risk(s) identified

There is some risk in setting up a fisheries protocol, particularly with regard to the amounts intended to finance the sectoral fisheries policy (under-programming).

2.2.2. Information concerning the internal control system set up

Extensive dialogue is planned on the programming and implementation of the sectoral policy. Joint analysis of results, as referred to in Article 3, also forms part of these control methods.

In addition, the Protocol contains specific clauses for its suspension, on certain conditions and in given circumstances.

2.2.3. Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures

The Commission undertakes to establish political dialogue and regular coordination with the Democratic Republic of São Tomé and Príncipe with a view to improving the management of the Agreement and strengthening the EU's contribution to the sustainable management of resources. In any case, any payment which the Commission makes under an FPA is subject to the Commission's standard rules and budgetary and financial procedures. This makes it possible, in particular, to fully identify the bank accounts of the third countries into which the financial contribution is paid. For this particular Protocol, Article 2(8) stipulates that the entire financial contribution must be paid into a Public Treasury account opened with the National Bank of São Tomé and Príncipe.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

Following the order of multiannual financial framework headings and budget lines.

Heading of multi-annual financial frame-work	Budget line	Type of expenditure	Contribution			
	Number [Description….....…]	DA/NDA (7)	from EFTA countries[8]	from candidate countries[9]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
2	11.03 01 To establish a governance framework for fishing activities carried out by Union fishing vessels in third country waters (SFAs)	DA	NO	NO	YES	NO

- New budget lines requested : not applicable

Following the order of multiannual financial framework headings and budget lines.

Heading of multi-annual financial frame-work	Budget line	Type of expenditure	Contribution			
	Number [Description…....….]	DA/NDA	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

7 DA = Differentiated appropriations / NDA = Non-differentiated appropriations.

8 EFTA: European Free Trade Association.

9 Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1. Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multi-annual financial frame-work	**Number 2**	Sustainable growth: natural resources

DG MARE			Year **2014**	Year **2015**	Year **2016**	Year **2017**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
• Operating appropriations										
Number of budget line 11.0301	Commitments	(1)	0.710	0.710	0.710	0.675				**2.805**
	Payments	(2)	0.710	0.710	0.710	0.675				**2.805**
Number of budget line	Commitments	(1a)								
	Payments	(2a)								
Appropriations of an administrative nature financed from the envelope of specific programmes[10]										
Number of budget line 11 010401		(3)	0.074	0.074	0.074	0.134				**0.356**
TOTAL appropriations for DG MARE	Commitments	=1+1a +3	0.784	0.784	0.784	0.809				**3.161**
	Payments	=2+2a +3 +3	0.784	0.784	0.784	0.809				**3.161**

• TOTAL operational appropriations	Commitments	(4)	0.710	0.710	0.710	0.675				**2.805**

[10] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

	Payments	(5)	0.710	0.710	0.710	0.675				**2.805**
• TOTAL appropriations of an administrative nature financed from the envelope of specific programmes		(6)	0.074	0.074	0.074	0.134				**0.356**
TOTAL appropriations under HEADING 2 of the multiannual financial framework	Commitments	=4+ 6	0.784	0.784	0.784	0.809				**3.161**
	Payments	=5+ 6	0.784	0.784	0.784	0.809				**3.161**

If more than one heading is affected by the proposal/initiative: NOT APPLICABLE

• TOTAL operational appropriations	Commitments	(4)								
	Payments	(5)								
• TOTAL appropriations of an administrative nature financed from the envelope of specific programmes		(6)								
TOTAL appropriations under HEADINGS 1 to 4 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6								
	Payments	=5+ 6								

Heading of multiannual financial framework	**5**	Administration

EUR million (to three decimal places)

		Year **2014**	Year **2015**	Year **2016**	Year **2017**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
DG: MARE									
• Human resources		0.113	0.113	0.113	0.113				**0.452**
• Other administrative expenditure		0.006	0.006	0.006	0.006				**0.024**
TOTAL DG MARE	Appropriations	0.119	0.119	0.119	0.119				**0.476**

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0.119	0.119	0.119	0.119				**0.476**

EUR million (to three decimal places)

		Year **2014**	Year **2015**	Year **2016**	Year **2017**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	0.903	0.903	0.903	0.928				**3.637**
	Payments	0.903	0.903	0.903	0.928				**3.637**

3.2.2. Estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– x The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate objectives and outputs ⇩			Year **2014**		Year **2015**		Year **2016**		Year **2017**		Enter as many years as necessary to show the duration of the impact (see point 1.6)						**TOTAL**	
			OUTPUTS															
	Type[11]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[12]…																		
- vessel licences	t/yr	55/50		0.385		0.385		0.385		0.350								
- Sectoral support	annual	0.325	1	0.325	1	0.325	1	0.325	1	0.325								
Sub-total for specific objective N°1				0.710		0.710		0.710		0.675								
SPECIFIC OBJECTIVE No 2…																		
-																		
Subtotal for specific objective No 2																		
TOTAL COST				0.710		0.710		0.710		0.675								

[11] Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

[12] As described in point 1.4.2. "Specific objective(s)…"

[13] Price per tonne of reference tonne of 7 000 tonnes per year: EUR 55 during the first three years and EUR 50 during the last year

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature.

– x The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2014**	Year **2015**	Year **2016**	Year **2017**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
HEADING 5 of the multiannual financial framework								
Human resources	0.113	0.113	0.113	0.113				**0.452**
Other administrative expenditure	0.006	0.006	0.006	0.006				**0.024**
Sub-total HEADING 5 of the multiannual financial framework	0.119	0.119	0.119	0.119				**0.476**
Outside HEADING 5[14] of the multiannual financial framework								
Human resources	0.062	0.062	0.062	0.062				**0.248**
Other expenditure of an administrative nature	0.012	0.012	0.012	0.072				**0.108**
Sub-total outside HEADING 5 of the multiannual financial framework	0.074	0.074	0.074	0.134				**0.356**
TOTAL	**0.193**	**0.193**	**0.193**	**0.253**				**0.832**

The human resources appropriations required will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[14] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former "BA" lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources

– x The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year **2014**	Year **2015**	Year **2016**	Year **2017**
• Establishment plan posts (officials and temporary staff)					
11 01 01 01 (Headquarters and Commission's Representation Offices)		0.95	0.95	0.95	0.95
XX 01 01 02 (Delegations)					
XX 01 05 01 (Indirect research)					
10 01 05 01 (Direct research)					
• External personnel (in Full Time Equivalent: FTE)[15]					
XX 01 02 01 (CA, SNE, INT from the "global envelope")					
XX 01 02 02 (CA, LA, SNE, INT and JED in the delegations)					
11 01 04 01 *[16]*	- at Headquarters				
	- in Delegations	0.5	0.5	0.5	0.5
XX 01 05 02 (CA, SNE, INT - Indirect research)					
10 01 05 02 (CA, INT, SNE - Direct research)					
Other budget lines (specify)					
TOTAL					

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Administrative and budgetary implementation of the agreement (licences, monitoring catches, payment, sectoral support), preparation for and participation in joint committees and negotiating subsequent Protocols, preparation and implementing legislative acts, correspondence, technical and scientific support. Desk officer + financial assistant + secretarial staff + head of unit (or deputy) + scientific and technical support and collation of licence and catch data: 0.95 FTE divided between 0.75 at EUR 132 000/year and 0.2 at EUR 70 000/year.
External staff	Monitoring the implementation of the agreement and provision of sectoral support. Estimated 0.5 FTE, at EUR 125 000/year.

15 CA = Contract Agent; LA= Local Agent; SNE= Seconded National Expert; INT = agency staff ('intérimaire'); JED = young expert in delegation ('jeune expert en délégation').

16 Sub-ceiling for external staff covered by operational appropriations (former "BA" lines).

3.2.4. Compatibility with the current multiannual financial framework

– x Proposal/initiative is compatible with the current multiannual financial framework.

– ☐ Proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts.

– ☐Proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework[17].

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

– The proposal/initiative does not provide for co-financing by third parties.

– The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations cofinanced								

[17] See points 19 and 24 of the Interinstitutional Agreement (for the period 2007-2013).

3.3. Estimated impact on revenue

– x Proposal/initiative has no financial impact on revenue.

– ☐ Proposal/initiative has the following financial impact:

☐ on own resources

☐ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[18]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For miscellaneous assigned revenue, specify the budget expenditure line(s) affected.

Specify the method for calculating the impact on revenue.

[18] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25% for collection costs.