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2021/0128 (NLE)

Proposal for a

COUNCIL REGULATION

on the allocation of fishing opportunities under the Implementing Protocol (2021-2026) to the Fisheries Partnership Agreement between the Gabonese Republic and the European Community

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The current Fisheries Partnership Agreement (FPA) between the European Community and the Gabonese Republic was signed on 4 June 2007 and entered into force on 11 June 2007 for a duration of 6 years. The agreement is tacitly renewable, and is therefore still in force. A previous 3-year FPA Implementing Protocol entered into force on 24 July 2013 and expired on 23 July 2016.

On the basis of the relevant negotiating directives[1], the Commission conducted negotiations with the Government of the Gabonese Republic (hereinafter 'Gabon') with a view to concluding, on behalf of the European Union, a new FPA implementing protocol (2021-2026). At the end of those negotiations, a protocol was initialled by the negotiators on 10 February 2021. The new Protocol covers a period of 5 years from the date of provisional application laid down in its Article 24 thereof, that being the date on which it is signed by both parties.

The purpose of this proposal is to authorise the signing of the Implementing Protocol.

• Consistency with existing provisions in the policy area

The main aim of the new Protocol is to provide an updated framework taking into account the priorities of the reformed common fisheries policy and its external dimension, with a view to continuing and strengthening the strategic partnership between the European Union and the Gabonese Republic in the field of fisheries.

The Protocol aims to grant fishing opportunities to European Union vessels in the Gabonese fishing zone in accordance with the best available scientific advice and the resolutions and recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), within the limits of the available surplus. The Commission based its position in part on the results of an evaluation of the previous Protocol (2013-2016) and a forward-looking evaluation of whether a new protocol should be concluded. These evaluations were carried out by external experts. The aim is also to enhance cooperation between the European Union and the Gabonese Republic to promote a sustainable fisheries policy and sound exploitation of fisheries resources in the Gabonese fishing zone and in the Atlantic Ocean, in the interest of both parties. This cooperation will also help to promote decent working conditions for fishing activity.

The new Protocol provides for fishing opportunities in the following categories:

- 27 tuna purse seine vessels;

- 6 pole-and-line tuna vessels;

- support vessels in accordance with the relevant ICCAT resolutions and within the limits set by Gabonese legislation;

[1] Adopted at the 3418th Agriculture and Fisheries Council on 22 October 2015.

- 4 trawlers for possible fishing of deep-sea crustaceans, subject to authorisation based on the results of exploratory fishing trips.

- **Consistency with other Union policies**

The negotiation of a new implementing protocol to the Sustainable Fisheries Partnership Agreement with Gabon forms part of the Union's external action in relation to African, Caribbean and Pacific (ACP) countries and takes into account, in particular, Union objectives on respecting democratic principles and human rights.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is Article 43(3) of the Treaty on the Functioning of the European Union, which establishes that the Council, on a proposal from the Commission, shall adopt measures on the allocation of fishing opportunities.

- **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 2015 the Commission carried out an *ex-post* evaluation of the 2013-2016 Protocol to the FPA with Gabon as well as an *ex-ante* evaluation of a possible renewal of the Protocol.

The evaluation concluded that the Union fishing sector has a strong interest in fishing in Gabon and that the renewal of the Protocol is in the interest of both parties. Furthermore, renewing the Protocol would help strengthening monitoring, control and surveillance and would contribute to improved governance of the fisheries in the region.

For the Union, it is important to maintain an instrument allowing deep sectoral cooperation with a country which, due to the size of the fishing area under its jurisdiction, is a major player in ocean governance at sub-regional level. Strengthening relations with Gabon will also enable alliances to be built within the framework of the ICCAT. Furthermore, for the Union fleet this means restoring access to an important fishing area for the deployment of harvesting strategies under a multiannual international legal framework. Moreover, Libreville is a potential landing port due to its location at the heart of a busy fishing zone, which adds to the relevance of the intended new protocol both for the Union fishing industry and for the partner country. For the Gabonese authorities, the aim is to maintain relations with the Union in order to strengthen ocean governance, benefit from dedicated sectoral support that provides for funding opportunities over several years, and use the vessel activity to start industrialising its processing sector to help diversify its economy.

- **Consultation of interested parties**

Member States, industry representatives and international civil society organisations, as well as Gabon's fisheries administration and civil society, 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 draft regulation does not affect the Union budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

This procedure is being initiated in parallel with the procedures relating to the Council Decision on the signing, on behalf of the Union, and provisional application of the Implementing Protocol to the Fisheries Partnership Agreement between the European Community and the Gabonese Republic, and to the Council Decision on its conclusion. This Regulation shall apply once fishing activities become possible under the Protocol, i.e. on the date of its provisional application.

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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(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Fisheries Partnership Agreement between the European Community and the Gabonese Republic[1] (hereinafter 'the Agreement'), approved by Council Regulation (EC) No 450/2007[2] entered into force on 11 June 2007. The Protocol thereto setting out the fishing opportunities and financial contribution provided for in the Agreement expired on 23 July 2016.

(2) The Commission has negotiated, on behalf of the European Union, a new protocol for a period of 5 years (hereinafter 'the Protocol').

(3) As a result of those negotiations, the Protocol was initialled on 10 February 2021.

(4) On [...], the Council adopted Decision (EU) 2021/ ..[3] on the signing and provisional application of the new Protocol, subject to its conclusion at a later date.

(5) The fishing opportunities provided for in the Protocol should be allocated among the Member States for the entire period of application of the Protocol.

(6) This Regulation should enter into force as soon as possible in view of the economic importance of Union fishing activities in the Gabonese fishing zone and the need to reduce as much as possible the time such activity is interrupted for.

(7) The Protocol will apply on a provisional basis as from the date of its signature in order to allow for the fishing activities of Union vessels. This Regulation should therefore apply from the same date,

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1 Fisheries partnership agreement between the Gabonese Republic and the European Community (OJ L 109 of 26.4.2007, p. 3).

2 Council Regulation (EC) No 450/2007 of 16 April 2007 on the conclusion of the Fisheries Partnership Agreement between the Gabonese Republic and the European Community (OJ L 109, 26.4.2007, p. 1).

3 Council Decision (EU) 2021/… of … 2021 on … (OJ C […], […], p. […]).

HAS ADOPTED THIS REGULATION:

Article 1

The fishing opportunities established under the Implementing Protocol (2021-2026) to the Sustainable Fisheries Partnership Agreement between the European Union and the Gabonese Republic (hereinafter 'the Protocol') shall be allocated among the Member States as follows:

(a) Tuna seiners:

Spain:	[15]	vessels
France:	[12]	vessels

(b) Pole-and-line tuna vessels:

Spain:	[5]	vessels
France:	[1]	vessel

(c) trawlers:

Spain:	[p.m.]	vessel
xx:	[p.m.]	vessel

Article 2

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

It shall apply from the date of signature of the Protocol.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President