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2022/0248 (NLE)

Proposal for a

COUNCIL REGULATION

on the allocation of fishing opportunities under the Protocol implementing the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (2022-2026)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Fisheries Partnership Agreement between the European Union and the Republic of Mauritius was signed on 21 December 2012 and entered into force on 28 January 2014 for a period of 6 years. It is tacitly renewed and is therefore still in force. The latest Protocol on the implementation of the Fisheries Partnership Agreement covered a period of 4 years from the date of its provisional application, i.e. from the date on which it was signed. It was signed on 8 December 2017 and expired on 7 December 2021.

A six-month extension of the Protocol was agreed in the form of an Exchange of Letters between the European Union and Mauritius, and was signed on 5 April 2022.

On the basis of the relevant negotiating directives[1], the Commission conducted negotiations with Mauritius on concluding a new Protocol to the Fisheries Partnership Agreement between the European Union and Mauritius. Following these negotiations, a new Protocol was initialled on 7 May 2022.

The new Protocol covers a period of 4 years from the date of provisional application laid down in Article 18 thereof, that date being the date on which it is signed by both parties.

The purpose of this proposal is to distribute the fishing opportunities among the interested EU Member States.

• Consistency with existing policy provisions in the policy area

The main aim of the new Protocol is to provide an updated framework that takes into account the priorities of the reformed common fisheries policy and its external dimension. This will help continue and strengthen the strategic partnership between the European Union Mauritius. The new Protocol will enable them to work more closely on promoting a sustainable fisheries policy, in line with the objective of conserving marine biological resources recognised in EU law, a sound exploitation of fishery resources in Mauritian waters, and Mauritius' efforts to develop its sustainable ocean economy, in the interests of both parties. This cooperation will also help promote decent working conditions in the fisheries sector.

The new Protocol provides fishing opportunities for EU vessels in Mauritius waters. This is based on the best available scientific advice and the recommendations made by the regional fisheries organisation that manages highly migratory fish stocks, the Indian Ocean Tuna Commission, where applicable within the limits of the available surplus. The Commission has based its position in part on the results of an evaluation of the previous Protocol (2017-2021) and a forward-looking assessment of whether a new Protocol should be concluded. Both were carried out by external experts.

The Protocol provides for the following fishing opportunities:

- 40 purse seiners;

[1] Adopted by the 3813th meeting of the Council on Competitiveness (Internal Market, Industry, Research and Space) on 28.09.2021. https://www.consilium.europa.eu/media/52134/st12320-en21_edited.pdf

- 45 surface longliners.

- **Consistency with other Union policies**

The negotiation of a new Protocol forms part of EU external action in relation to African, Caribbean and Pacific countries and takes into account, in particular, EU objectives on respecting democratic principles and human rights.

The EU and Mauritius are Parties to the interim Agreement signed on 29 August 2009.This established a framework for an Economic Partnership Agreement (EPA) between the Eastern and Southern Africa States on the one hand, and the European Union and its Member States on the other. The negotiations for a new Protocol are in line with the EPA, which provides for cooperation between the Parties in fisheries trade and development covering marine, inland fisheries and aquaculture.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is Article 43(3) TFEU, 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 EU vessels in third-country waters, as set out in Article 31 of Regulation (EU) No 1380/2013 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 2021, the Commission carried out an *ex post* evaluation of the 2017-2021 Protocol to the Fisheries Partnership Agreement with Mauritius as well as an *ex ante* evaluation of a possible renewal of the Protocol.

The evaluation of the 2017-2021 Protocol concluded that it complemented the other access arrangements established in the region, allowing EU vessels to optimise exploitation of migratory stocks within the regional rules set by the Indian Ocean Tuna Commission. It was relevant to the needs of EU stakeholders as it provided EU ship owners with predictable access to a productive fishing area where targeted species are abundant. Access to Mauritius' waters provides the EU longline fleet based in La Réunion with opportunities to extend fishing areas to neighbouring waters. The activities of the EU tuna fleet in Mauritius' waters and in the broader Indian Ocean have generated substantial positive socioeconomic impacts for Mauritius, and the EU financial contribution has been broadly aligned with the fishing opportunities exploited. On sectoral support, the evaluation noted that the programme had been implemented with delays and that a future sectoral support programme should aim as a matter of priority to strengthen Mauritius' capacity to comply with its international

obligations, in particular those related to scientific observations, catch sampling and port inspections. A future sectoral support programme could also help develop the national fishing sector through support to small-scale fishers and the development of a semi-industrial segment. The evaluation recommended earmarking part of the funding available for the recruitment of an external technical assistant to coordinate and facilitate the implementation of the sectoral support programme.

For the EU, it is important to maintain an instrument that allows close sectoral cooperation with a country that is a major economic partner, a fish product supplier to the EU, stakeholders on the international scene and has fishing grounds that are of interest to the EU fleet.

- **Stakeholder consultations**

As part of the evaluation, the Commission consulted Member States, industry representatives and international civil society organisations, as well as Mauritius' fisheries administration and civil society. Consultations also took place within the the Long Distance Fisheries Advisory Council. These consultations led to the conclusion that it would be beneficial for the European Union and Mauritius to conclude a new Protocol to the Fisheries Partnership Agreement.

- **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 Regulation (EU) No 1380/2013 establishing the common fisheries policy.

- **Fundamental rights**

The negotiated Protocol includes a clause on the consequences of violating the essential elements on human rights laid down in Article 9 of the Cotonou Agreement, or the corresponding article of the agreement that will succeed it.

4. BUDGETARY IMPLICATIONS

The draft regulation does not affect the EU 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 proposal for a Council Decision on the signing, on behalf of the European Union, and provisional application of the Implementing Protocol to the Fisheries Partnership Agreement between the European Union and Mauritius, and the proposal for a Council Decision on its conclusion. This Regulation should apply as soon as fishing activities become possible under the Protocol, i.e. from the date of signature that will trigger 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) On 28 January 2014, the Council adopted Council Decision 2014/146/EU[2] on the conclusion of the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (hereinafter referred to as 'the Agreement').

(2) The first Protocol[3] to the Agreement set out, for a period of 3 years, the fishing opportunities granted to Union vessels in the fishing zone in Mauritius waters and the financial contribution granted by the Union. The period of application of that Protocol expired on 27 January 2017.

(3) The second Protocol[4] to the Agreement set out, for a period of 4 years, the fishing opportunities granted to Union vessels in the fishing zone in Mauritius waters and the financial contribution granted by the Union. The period of application of that Protocol expired on 7 December 2021.

(4) An agreement in the form of an Exchange of Letters between the European Union and Mauritius was authorised by Council Decision (EU) 2022/614[5], extending the application of the last Protocol until 4 October 2022.

(5) On 28 September 2021, the Council authorised the Commission to open negotiations with Mauritius for the conclusion of a new Protocol implementing the Agreement.

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2 Council Decision of 28 January 2014 on the conclusion of the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (OJ L 79, 18.3.2014, p. 2).

3 Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (OJ L 79, 18.3.2014, p. 9).

4 Council Decision (EU) 2018/754 of 14 May 2018 on the conclusion of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius (OJ L 128, 24.5.2018, p. 1–3).

5 Council Decision (EU) 2022/614 of 11 February 2022 on the signing, on behalf of the Union, and provisional application of the Agreement in the form of an Exchange of Letters between the European Union and the Republic of Mauritius concerning the extension of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Union and the Republic of Mauritius, ST/5656/2022/INIT, (OJ L 115, 13.4.2022, p. 43)–44

(6) As a result of those negotiations, a new protocol for a period of 4 years (hereinafter 'the Protocol') was initialled on 7 May 2022.

(7) On [...], the Council adopted Decision (EU) 2022/.[DG insert footnote] on the signing and provisional application of the Protocol, subject to its conclusion at a later date[6].

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

(9) The Protocol should be implemented as soon as possible in view of the economic importance of Union fishing activities in the Mauritius fishing zone and the need to minimise as much as possible the time period related to the interruption of such activities.

(10) 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.

(11)

HAS ADOPTED THIS REGULATION:

Article 1

The fishing opportunities established under the Protocol implementing the Fisheries Partnership Agreement between the European Union and Mauritius (2022-2026) shall be allocated among the Member States as follows:

(1) 40 purse seiners

– Spain: 22 vessels

– France: 16 vessels

– Italy : 2 vessels

(2) 45 surface longliners

– Spain: 12 vessels

– France: 29 vessels

– Portugal: 4 vessels

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 […].

[6] Council Decision (EU) 2022/… of … 2022 on … (OJ C […], […], p. […]).

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

Done at Brussels,

For the Council
The President