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2019/0092 (NLE)

Proposal for a

COUNCIL REGULATION

on the allocation of fishing opportunities under the Protocol on the implementation of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

On the basis of the relevant negotiating directives[1], the Commission conducted negotiations with the Government of the Republic of Guinea-Bissau with a view to concluding a new Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau[2]. Following these negotiations, a new Protocol was initialled on 15 November 2018. The Protocol covers a period of five years from the date of its provisional application, i.e. from the date on which it is signed, as stated in Article 16 thereof.

• Consistency with existing policy provisions in the policy area

In line with the priorities of the fisheries policy reform[3], the new Protocol provides fishing opportunities for Union vessels in the waters of Guinea-Bissau, on the basis of the best available scientific advice and following the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This new Protocol takes account of the results of an evaluation of the previous Protocol (2014-2017) and of a forward-looking assessment of whether a new Protocol should be concluded. Both were carried out by external experts. The Protocol will also enable the European Union and the Republic of Guinea-Bissau to work more closely on promoting sound exploitation of fisheries resources in the waters of Guinea-Bissau and support efforts by Guinea-Bissau to develop its blue economy, in the interests of both parties.

The Protocol provides for fishing opportunities in the following categories:

(a) freezer shrimp trawlers;

(b) freezer fin-fish and cephalopod trawlers;

(c) small-pelagic trawlers;

(d) freezer tuna seiners and longliners;

(e) pole-and-line tuna vessels.

For the first three categories, fishing opportunities are expressed as fishing effort (GRT) for the first two years, and as catch limits (TAC) for the last three years.

The method for allocating fishing opportunities among the Member States should be established.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

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

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1 Adopted by the Environment Council on 28 February 2017.

2 OJ L 342, 17.12.2007, p. 5.

3 OJ L 354, 28.12.2013, p. 22.

- **Subsidiarity (for non-exclusive competence)**

The policy area is an exclusive competence of the European Union.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Stakeholders were consulted during the ex-post and ex-ante evaluations on a possible new Protocol between the European Union and the Republic of Guinea-Bissau. Experts from the Member States and industry were also consulted in technical meetings. These consultations led to the conclusion that it would be beneficial for the European Union and the Republic of Guinea-Bissau to conclude a new Protocol to the Fisheries Agreement.

- **Stakeholder consultations**

The Member States, industry representatives and international civil society organisations, as well as Guinea-Bissau's fisheries administration and civil society representatives, 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, of the Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau and to the Council Decision on its conclusion. This Regulation must be applied once fishing activities become possible under the Agreement, i.e. on the date of provisional application of the Protocol.

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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 17 March 2008, the Council adopted Regulation (EC) No 241/2008[4] on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (hereinafter 'the Agreement')[5], which entered into force on 15 April 2008, was then tacitly renewed, and remains in force.

(2) The previous Protocol to this Agreement expired on 23 November 2017.

(3) The Commission has negotiated on behalf of the European Union a new Protocol implementing the Agreement (hereinafter 'the Protocol'). The Protocol was initialled at the end of those negotiations on 15 November 2018.

(4) In accordance with Council Decision 2019/.../EU[6], the Protocol implementing the Fisheries Agreement between the European Community and the Republic of Guinea-Bissau was signed on [*insert date of signature*].

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

(6) The Protocol will apply on a provisional basis from its date of signature in order to ensure an expeditious start to fishing activities of Union vessels. This Regulation should therefore apply from the same date,

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, 'highly migratory species' means the species listed in Annex 1 to the 1982 United Nations Convention on the Law of the Sea, except for the family

[4] Council Regulation (EC) No 241/2008 of 17 March 2008 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (OJ L 75, 18.3.2008, p. 49).

[5] OJ L 342, 27.12.2007, p. 5.

[6] Decision ... (OJ L ..., ..., p...).

Alopiidae, the family *Sphyrnidae*, and the following species: *Cethorinus maximus, Rhincodon typus, Carcharodon carcharias, Carcharinus falciformis, Carcharinus longimanus*.

Article 2

Fishing opportunities

The fishing opportunities established by the Protocol implementing the Fisheries Partnership Agreement between the European Community and the Republic of Guinea-Bissau (2019-2024) (hereinafter 'the Protocol') shall be allocated among the Member States in accordance with Articles 3 and 4.

Article 3

Demersal and small pelagic species

Fishing opportunities for demersal and small pelagic species shall be allocated among the Member States as follows:

1) during the first and second years of application of the Protocol, based on a system of fishing effort (gross registered tonnes, 'GRT'):

a) Freezer shrimp trawlers:

Spain	2 500 GRT
Greece	140 GRT
Portugal	1 060 GRT

b) Freezer fin-fish and cephalopod trawlers:

Spain	2 900 GRT
Greece	225 GRT
Italy	375 GRT

c) Small-pelagic trawlers:

Spain	3 500 GRT
Portugal	500 GRT
Lithuania	5 000 GRT
Latvia	5 000 GRT
Poland	1 000 GRT

2) from the third year of application of the Protocol, based on a system setting catch limits for each species (TAC):

a) Freezer shrimp trawlers:

Spain	1 650 tonnes

Greece	100 tonnes
Portugal	750 tonnes

b) Freezer fin-fish trawlers:

Spain	9 500 tonnes
Greece	500 tonnes
Italy	1 000 tonnes

c) Freezer cephalopod trawlers:

Spain	1 200 tonnes
Greece	150 tonnes
Italy	150 tonnes

d) Small-pelagic trawlers:

Spain	3 900 tonnes
Portugal	700 tonnes
Lithuania	6 000 tonnes
Latvia	6 000 tonnes
Poland	1 400 tonnes

Article 4

Highly migratory species

Fishing opportunities for highly migratory species shall be allocated as follows:

a) Freezer tuna seiners and surface longliners:

Spain:	14	vessels
France:	12	vessels
Portugal:	2	vessels

b) Pole-and-line tuna vessels:

Spain	10	vessels
France	3	vessels

Article 5

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 [*insert 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