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2022/0362 (NLE)

Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement between the European Union and the Republic of Seychelles on access for Seychelles fishing vessels to the waters of Mayotte

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The agreement between the European Union and the Republic of Seychelles on access for Seychelles fishing vessels to the waters of Mayotte (the 'Agreement of 2015')[1] was signed and entered into provisional application on 20 May 2014 for a duration of 6 years. The Agreement of 2015 was tacitly renewed on 20 May 2020.

On the basis of the relevant negotiating directives[2], the Commission conducted negotiations with the Government of Seychelles with a view to concluding an agreement between the European Union and the Republic of Seychelles. Following these negotiations, a new agreement (the 'Agreement') was initialled on 10 June 2022.

The new Agreement covers a period of 6 years from the date of provisional application laid down in its Article 18, that being the date on which it is signed by both parties.

The purpose of this proposal is to authorise the conclusion of the Agreement, in accordance with Article 218(6) of the Treaty on the Functioning of the European Union (TFEU).

• Consistency with existing policy provisions in the policy area

The main aim of the new Agreement is to enable further strengthening of a strategic partnership with Seychelles and to align the technical and financial conditions of the Agreement with the Sustainable Fisheries Partnership Agreement (SFPA) with Seychelles and its Implementing Protocol signed in 2020[3]. The Agreement also contributes to responsible fishing in EU waters and to developing fishery policy in Mayotte.

The Agreement provides fishing opportunities for Seychelles vessels in the Union waters of Mayotte. These fishing opportunities are based on the best available scientific advice and respect the recommendations of the regional fisheries organisation managing the highly migratory fish stocks, the Indian Ocean Tuna Commission (IOTC), where applicable within the limits of the available surplus.

The Agreement provides for fishing opportunities to eight Seychelles purse seiners

• Consistency with other Union policies

The negotiation of a new agreement forms part of the European Union's external action in relation to the African, Caribbean and Pacific (ACP) countries.

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1 Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union, OJ L 167, 6.6.2014, p. 4.

2 Decision authorising the opening of negotiations between the EU and the Republic of Seychelles for the conclusion of an agreement on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte (and related negotiating directives), adopted by Employment, Social Policy, Health and Consumer Affairs Council, 24 October 2019, ST-13311-2019-INIT.

3 Sustainable Fisheries Partnership Agreement between the European Union and the Republic of Seychelles, ST/5246/2020/INIT, OJ L 60, 28.2.2020, p. 5–44.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis is Article 43(2) of the Treaty on the Functioning of the European Union (TFEU), which establishes the common fisheries policy, and Article 218(6) TFEU, which provides that the Council, on a proposal by the negotiator, must adopt a decision concluding the Agreement.

Article 17(1) of the Treaty on European Union lays down that with the exception of the common foreign and security policy, the Commission is to ensure the EU's external representation. Consequently, officials designated by the Commission have sole competence to notify Seychelles of the completion of the ratification process.

• 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 Seychelles vessels in Union waters, as set out in Article 32 of Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets.

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

• Ex-post evaluations/fitness checks of existing legislation

In 2019, the Commission carried out an *ex post* evaluation of the Protocol to the Fisheries Partnership Agreement between the EU and the Republic of Seychelles, and an *ex ante* evaluation of a possible future SFPA and Protocol[4], which also provides a review of the Agreement.

The Agreement allows reciprocity between the two parties in terms of access to waters for fishing vessels of the same type and targeting the same species. It has been renewed considering that the EU–Seychelles SFPA Protocol has itself been renewed, maintaining the same alignment between the two texts as regards technical and financial conditions.

• Stakeholder consultations

The evaluation study consulted Member States, industry representatives and international civil society organisations, as well as Seychelles' fisheries administration and civil society. These consultations led to the conclusion that it would be beneficial for the European Union and the Republic of Seychelles to conclude a new agreement.

• Collection and use of expertise

The Commission used an independent consultant for the review of the Agreement as part of the *ex post* and *ex ante* evaluations of the EU–Seychelles FPA, in accordance with Article 31(10) of the Regulation establishing the common fisheries policy.

[4] ISBN: 978-92-76-01966-4 doi: 10.2771/47637.

4. BUDGETARY IMPLICATIONS

As this concerns the access of fishing vessels flying the flag of the Seychelles to waters falling under EU jurisdiction, there are no financial implications by way of expenditure or income on the EU budget.

5. OTHER ELEMENTS

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

The monitoring arrangements are provided for in the Agreement.

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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(6)(a)(v) and (7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament[5],

Whereas:

(1) In accordance with Council Decision [XXX] of […][6], the Agreement between the European Union and the Republic of Seychelles on access for Seychelles fishing vessels to the waters of Mayotte (hereinafter 'the Agreement') was signed on […], subject to its conclusion at a later date.

(2) The objective of the Agreement is to enable further strengthening of a strategic partnership with Seychelles and to align the technical and financial conditions of the Fisheries Access Agreement with the Sustainable Fisheries Partnership Agreement with Seychelles and its Implementing Protocol signed in 2020[7], and to contribute to responsible fishing in EU waters and to developing fishery policy in Mayotte.

(3) The Agreement should be approved on behalf of the Union.

(4) Article 8 of the Agreement establishes a Joint Committee responsible for monitoring the application of the Agreement. Pursuant to the Agreement, the Joint Committee may approve certain amendments thereto. The Union's position on amendments that are proposed to the Agreement should be established by the Council. The Commission should approve the proposed amendments on behalf of the Union, unless a number of Member States constituting a blocking minority, in accordance with Article 16(4) of the Treaty on European Union, object to them.

(5) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725[8] of the European Parliament and of the Council and delivered an opinion on [insert date].

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5 OJ C , , p. .

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

7 Sustainable Fisheries Partnership Agreement between the European Union and the Republic of Seychelles, ST/5246/2020/INIT, OJ L 60, 28.2.2020, p. 5–44.

8 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

HAS ADOPTED THIS DECISION:

Article 1

The Agreement between the European Union and the Republic of Seychelles on access for Seychelles fishing vessels to the waters of Mayotte is hereby approved on behalf of the Union.

The text of the Agreement is attached to this Decision as Annex I.

Article 2

The Commission shall, on behalf of the Union, give the notification provided for in Article 20 of the Agreement, in order to express the Union's consent to be bound by the Agreement.

Article 3

Subject to the provisions and conditions set out in Annex II to this Decision, the Commission is empowered to approve, on behalf of the Union, amendments to the Agreement adopted by the Joint Committee established under Article 8 of the Agreement.

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