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Proposal for a

**COUNCIL DECISION**

**on the conclusion of a Sustainable Fisheries Partnership Agreement between the  
European Union and the Republic of The Gambia and of the Implementation Protocol  
thereto**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

The Council authorised the European Commission to negotiate, on behalf of the European Union, a new Agreement between the European Union and the Republic of The Gambia, and a Protocol setting out the fishing opportunities and financial contribution. At the end of the negotiations an Agreement and Protocol were initialled by the negotiators on 19 October 2018. The new Agreement repeals and replaces the existing Agreement which entered into force on 2 June 1987; it covers a period of six years from the date of its provisional application, renewable by tacit agreement. The new Protocol covers a period of six years from the date of provisional application laid down in Article 13, that being the date on which it is signed by the parties.

#### • **Consistency with existing policy provisions in the policy area**

The main aim of the new Agreement is to provide an updated framework taking into account the priorities of the reformed Common Fisheries Policy<sup>1</sup> and its external dimension, with a view to establishing a strategic partnership between the European Union and the Republic of The Gambia in the field of fisheries.

The aim of the Protocol is to grant fishing opportunities to European Union vessels in Gambian waters taking into account available scientific assessments, in particular those of the Fishery Committee for the Eastern Central Atlantic (CECAF), and in accordance with the best available scientific advice and the 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 a forward-looking assessment, carried out by external experts, of whether a new Agreement and Protocol should be concluded. The aim is also to enhance cooperation between the European Union and the Republic of The Gambia to promote a sustainable fisheries policy and sound exploitation of fisheries resources in the Gambian fishing zone, in the interest of both parties.

The Protocol provides for fishing opportunities in the following categories:

- 28 tuna seiners;
- 10 pole-and-line vessels;
- 3 trawlers (targeting black hake, a deep-sea demersal species).

#### • **Consistency with other Union policies**

The negotiation of a new Fisheries Partnership Agreement with The Gambia forms part of the Union's external action in relation to 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 chosen is the Treaty on the Functioning of the European Union, Article 43(2) of which establishes the Common Fisheries Policy and Article 218(6)(a)(v) the relevant stage

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<sup>1</sup> OJ 354 of 28.12.2013, p.22.

of the procedure for the negotiation and conclusion of agreements between the Union and third countries.

- **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. BUDGETARY IMPLICATIONS**

The annual financial contribution is EUR 550 000, based on:

a) an annual amount for access to the fisheries resources in the Gambian fishing zone of EUR 275 000 equivalent to a reference tonnage, for highly migratory species, of 3 300 tonnes per year,

b) support for development of the sectoral fisheries policy of The Gambia, amounting to EUR 275 000 a year. This support meets the objectives of The Gambia's national policy on the sustainable management of continental and maritime fishery resources.

### **4. OTHER ELEMENTS**

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

The monitoring arrangements are provided for in the Protocol included in the new Partnership Agreement.

Proposal for a

## COUNCIL DECISION

### **on the conclusion of a Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia and of the Implementation Protocol thereto**

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 Article 218(7) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament<sup>2</sup>,

Whereas:

- (1) The Commission negotiated on behalf of the European Union a new Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia ("the Partnership Agreement") as well as a new Implementation Protocol to the Partnership Agreement ("the Protocol").
- (2) The Partnership Agreement and the Protocol were initialled at the end of those negotiations on 19 October 2018.
- (3) The Partnership Agreement repeals the previous Agreement that was concluded between the Government of the Republic of The Gambia and the European Economic Community on fishing off the coast of The Gambia and that entered into force on 2 June 1987.
- (4) In accordance with Council Decision 2018/.../EU<sup>3</sup>, the new Partnership Agreement and the Protocol were signed on... [*insert the date of signature*].
- (5) The Partnership Agreement and the Protocol have been applied on a provisional basis from the date of their signature.
- (6) The Partnership Agreement and the Protocol should be approved on behalf of the European Union.
- (7) Article 9 of the Partnership Agreement establishes the Joint Committee responsible for monitoring its implementation. Furthermore, pursuant to Article 5, 6 and 8 of the Protocol, the Joint Committee may approve certain amendments to the Protocol. In order to facilitate the approval of such amendments, the Commission should be empowered, subject to specific conditions, to approve them under a simplified procedure,

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<sup>2</sup>

<sup>3</sup> OJ L ..., ..., p. .

HAS ADOPTED THIS DECISION:

*Article 1*

The Sustainable Fisheries Partnership Agreement between the European Union and the Republic of The Gambia ( ‘the Partnership Agreement’) and the Implementation Protocol thereto ( ‘the Protocol’) are hereby approved on behalf of the Union.

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

*Article 2*

In accordance with the provisions and conditions laid down in Annex II to this Decision, the Commission is authorised to approve, on behalf of the Union, the amendments to the Protocol adopted by the Joint Committee established under Article 9 of the Partnership Agreement.

*Article 3*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the notification provided for in Article 18 of the Partnership Agreement and in Article 16 of the Protocol, in order to express the consent of the European Union to be bound by those acts.

*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*