



Brussels, 25.9.2020
COM(2020) 582 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Republic of Liberia

{SWD(2020) 196 final} - {SWD(2020) 197 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The Commission proposes to negotiate a new protocol that meets the actual possibilities and needs of the Member States fleet and is in line with Regulation (EU) No 1380/2013 on the Common Fisheries Policy and the 19 March 2012 Council Conclusions on a Communication from the Commission on the External dimension of the Common Fisheries Policy.

- **Consistency with existing policy provisions in the policy area**

The European Union and the Government of the Republic of Liberia have concluded a Sustainable Fisheries Partnership Agreement¹ effective from 9 December 2015². Its implementing protocol will expire on 8 December 2020. This Protocol fixes the fishing opportunities provided to the Union fleet and the corresponding financial contribution paid by the Union and the ship-owners.

The Protocol provides for EUR 357 500 for the first year, EUR 325 000 for the second, third and fourth year, and of EUR 292 500 for the fifth year, from the EU budget as financial compensation for access for a reference tonnage of 6 500 t/year. In addition, EU ship-owners pay authorisation fees based on prices set in the Protocol for the quota allocated. On top of that, EUR 1 625 000 are also provided from the EU budget to support the Republic of Liberia sectoral fisheries policy for the five-year duration of the Protocol.

The SFPA with the Republic of Liberia provides fishing opportunities targeting tuna and highly migratory species for EU vessels from two Member States (Spain and France). The SFPA with the Republic of Liberia is part of a well developed network of bilateral SFPAs in western and central Africa, namely with Morocco, Mauritania, Senegal, Cabo Verde, The Gambia, Côte d'Ivoire and São Tomé and Príncipe.

SFPAs contribute to promote the objectives of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law. In addition, SFPAs foster scientific cooperation between the EU and its partners, promote transparency and sustainability for a better management of fishing resources. SFPAs encourage governance by supporting monitoring, control and surveillance of national and foreign fleets' activities and providing funding to fight against illegal, unreported and unregulated (IUU) fishing, and contribute to the sustainable development of local fishing sector.

SFPAs strengthen the European Union's position as a member of the International Commission for the Conservation of Atlantic Tunas (ICCAT), the body set up under international law for conserving and managing highly migratory species in the region.

- **Consistency with other Union policies**

The negotiation of a new protocol with the Republic of Liberia is in line with the EU's external action towards African, Caribbean and Pacific (ACP) countries, and in particular with the Union objectives regarding the respect of democratic principles, human rights.

¹ OJ L 177 of 1.7.2016

² OJ L 328, 12.12.2015, p. 3-43

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for the decision is provided by Article 218(3) and (4) of the Treaty on the Functioning of the European Union (TFEU), in Part Five on the Union's external action, Title V on international agreements, which sets out the procedure for negotiating and concluding agreements between the EU and third countries.

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

Not applicable, exclusive competence.

- **Proportionality**

The decision is proportional to the objective.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) and Article 218(4) of the TFEU.

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

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

The Commission carried out in 2019-2020 an ex-post evaluation of the current protocol to the SFPA EU/Liberia as well as an ex-ante evaluation of a possible renewal of the protocol. The conclusions of the evaluation are set out in a separate Staff Working Document³.

The evaluation concluded that the EU fishing industry (tuna species) is firmly interested in operating in Liberia's fishing zone and that the renewal of the Protocol clearly appears as the preferred option. A non-renewal would deprive the EU of an instrument capable of responding to the needs of the various stakeholders, and to its own needs in terms of strengthening the global governance of the oceans in the Eastern Atlantic Ocean through the ICCAT multilateral framework.

For Liberia, the EU intervention adds value in terms of a multiannual certainty of budget income, an official platform for sectoral dialogue and direct exchanges with the EU, in terms of cooperation and a framework for joint monitoring and control of EU activities. The SFPA contribute to the promotion of responsible fishing practices, and gives access to a dedicated budget line (sectoral support) for financial support to implementation of national fisheries policy by Liberia.

- **Stakeholder consultations**

Member States, industry representatives, international civil society organisations, as well as Liberia's fisheries administration and civil society, have been consulted as part of the evaluation. Consultations have also taken place in the framework of the Long Distance Advisory Council.

- **Collection and use of expertise**

Not applicable.

³ SWD(2020)196

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

A clause on the consequences of violations of human rights and democratic principles is included in the Sustainable Fisheries Partnership Agreement.

4. BUDGETARY IMPLICATIONS

The budgetary implications connected with the new Protocol include the payment of a financial contribution to Liberia, which is compatible with the current Multiannual Financial Framework (MFF), in particular as regards allocations to the budget line⁴ for Sustainable Fisheries Partnership Agreements. The annual amounts for commitments and payments are established in the yearly budgetary procedure, including the reserve line for proposals not entered into force at the beginning of the year.

5. OTHER ELEMENTS

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

On 23 May 2017, the Republic of Liberia was notified of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing by Commission Decision 2017/C 169/12⁵ under Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. Negotiations for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Republic of Liberia will only start once Commission Decision 2017/C 169/12 is reversed.

- **Detailed explanation of the specific provisions of the proposal**

The Commission recommends that:

- The Council should authorise the Commission to open and conduct negotiations for the conclusion of a new protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Republic of Liberia;
- The Commission should be nominated as the EU negotiator on this subject;
- The Commission should conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;
- The Council should approve the negotiating directives annexed to this recommendation.

⁴ Cf. Chapter 40 (reserve line 40 02 41) in line with the MFF inter-institutional agreement (2013/C 373/01).

⁵ (2017/C 169/12), OJ 169/11, 30.5.2017, p. 11–16

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Republic of Liberia

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) Negotiations should be opened with a view to concluding a new protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Republic of Liberia⁶.
- (2) On 23 May 2017, the Republic of Liberia was notified of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing by Commission Decision 2017/C 169/12 under Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. Negotiations for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Government of the Republic of Liberia will only start once Commission Decision 2017/C 169/12⁷, is reversed,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate on behalf of the Union a new protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Republic of Liberia.

These negotiations shall be opened by the Commission after reversal of Decision 2017/C 169/12.

⁶ Sustainable Fisheries Partnership Agreement between the European Union and the Republic of Liberia (OJ L 328, 12.12.2015, p. 3)

⁷ Commission Decision 2017/C 169/12 of 23 May 2017 notifying the Republic of Liberia of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (OJ C 169, 30.5.2017,p.11)

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Council Working Party on External Fisheries Policy.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*