



Brussels, 3.2.2014
COM(2014) 49 final

2014/0024 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union, in the Indian Ocean
Tuna Commission (IOTC)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

By Council Decision 95/399/EC¹ the European Community approved the Agreement, which established the Indian Ocean Tuna Commission (IOTC). The IOTC is a Regional Fisheries Management Organisation (RFMO) responsible for the management of tuna and tuna-like species in the Indian Ocean and adjacent seas. The European Union became a contracting party to the IOTC in 1995.

Pursuant to Article 218(9) of the Treaty on the Functioning of the European Union, the position to be adopted on behalf of the Union in RFMOs such as when they are called upon to adopt acts having legal effects, with the exception of acts supplementing or amending their institutional framework, must be adopted by Council Decision, on a proposal from the Commission.

Such position within the RFMO is currently established according to a two tier approach. A Council Decision sets out the guiding principles and orientations of the Union's position on a multiannual basis, whereas it is thereafter adjusted for each annual meeting by Commission non-papers to be discussed in the Council Working Party.

As regards the IOTC, Council Decision 7537/09 of 23 March 2009, provides for a review of the Union's position before the 2014 annual meeting. Therefore, this proposal aims at setting out the Union's position within the IOTC for the period 2014-2019 and thereby replacing Council Decision 7537/09 which is covering the period 2009-2014.

This revision aims at incorporating the principles and orientations of the new Common Fisheries Policy (CFP), taking also into account the objectives of the Commission Communication on the external dimension of the CFP². Moreover, the Union's position has been adjusted to the Lisbon Treaty. At last, the position has been aligned to the extent possible taking into account the specificities of the different RFMOs.

As it is the case for the current positions, the following position contains principles and orientations. In addition, the standard process for the year to year specification of the Union position has been incorporated as requested by Member States for positions aligned more recently.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The external dimension of the CFP was part of the impact assessment for the CFP reform proposals. The principles and orientations agreed for the new CFP are simply being transposed into the revised positions.

3. LEGAL ELEMENTS OF THE PROPOSAL

The following Decision is based on the Treaty on the Functioning of the European Union, and in particular Article 43(2), in conjunction with Article 218(9) which provides that the Council, on a proposal from the Commission shall adopt a decision establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called

¹ OJ L 236 of 05/10/1995, p.24.

² COM(2011) 424 of 13.7.2011.

upon to adopt acts having legal effects. This shall apply to the position to be adopted by the Commission, on behalf of the Union, in the IOTC.

Regulation (EU) XXX (new basic regulation) is the legal basis setting up the principles to be reflected in this negotiating mandate.

The following Decision shall replace Council Decision 7537/09 which is covering the period 2009-2014, and shall cover the period 2014-2019.

Proposal for a

COUNCIL DECISION

on the position to be adopted, on behalf of the European Union, in the Indian Ocean Tuna Commission (IOTC)

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(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 38 of the Treaty on the Functioning of the European Union, in conjunction with Article 39 thereof, provides that one of the objectives of the Common Fisheries Policy is to assure the availability of supplies.
- (2) Regulation (EU) XXX (new basic regulation) provides that the Union shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Union shall apply the precautionary approach to fisheries managements, and shall aim to ensure that exploitation of living marine biological resources restores and maintains population of harvested species above levels which can produce the maximum sustainable yield. It also provides that the Union shall aim to take management and conservation measures based on best available scientific advice, to promote fishing methods that contribute to more selective fishing and the avoidance and reduction, as far as possible, of unwanted catches, to fish with low impact on marine ecosystem and fishery resources and to gradually eliminate discards. Besides, the regulation specifically provides that these principles shall be applied by the Union in its external policy.
- (3) By Council Decision 95/399/EC³ the Union approved the Agreement, which established the Indian Ocean Tuna Commission (IOTC). Within that Organisation, the IOTC Commission is responsible for the adoption of conservation and management measures designed to ensure the long-term conservation and sustainable use of the fishery resources in the IOTC Area of Competence and to safeguard the marine ecosystems in which these resources occur. Such conservation and management measures may become binding upon the Union.
- (4) Pursuant to Article 218(9) of the Treaty on the Functioning of the European Union, the position to be adopted on behalf of the Union in Regional Fisheries Management Organisations when they are called upon to adopt acts having legal effects, with the exception of acts supplementing or amending their institutional framework, must be adopted by Council decision, on a proposal from the Commission.

³ OJ L 236 of 05/10/1995, p.24

- (5) In view of the evolving nature of fishery resources in the IOTC Area of Competence and the consequent need for the position of the Union to take account of new developments, including new statistical, biological and other information presented before or during the annual Meeting of the IOTC Commission, procedures must be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) TEU, for the year-to-year specification of the Union position;

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the annual Meeting of the Commission of the IOTC when that body is called upon to adopt decisions having legal effects is set out in Annex I to this Decision.

Article 2

The year-to-year specification of the Union position to be taken in the annual Meeting of the Commission of the IOTC shall be conducted in accordance with Annex II to this Decision.

Article 3

The Union position set out in Annex I to the present Decision shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest for the annual Meeting of the Commission on the IOTC in 2019.

Article 4

This Decision replaces Council Decision 7537/09 of 23 March 2009.

Article 5

This Decision shall enter into force on XXX

Done at Brussels,

*For the Council
The President*