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2022/0361 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application 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 directives², 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 purpose of this proposal is to authorise the signing of the Agreement.

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

The main aim of the 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 2020³. 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.

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(5) TFEU on the

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 the 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.

signing and the possibility of provisional application of agreements between the EU and third countries.

In accordance with Article 218(5) TFEU, the Council is to adopt a decision authorising the signing of 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 sign an agreement between the EU and a third country.

- **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 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 FPA between the EU and the Republic of Seychelles, and an *ex ante* evaluation of a possible future SFPA and Protocol⁴, which also provides a review of the operation 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 renegotiated, 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* evaluation of the EU–Seychelles FPA, in accordance with Article 31(10) of the Regulation establishing the common fisheries policy.

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.

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

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(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 10 February 2015, the Council adopted Council Decision 2015/238/EU⁵ on the conclusion, on behalf of the European Union, of the Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to the waters and marine biological resources of Mayotte, under the jurisdiction of the European Union (hereinafter ‘the Agreement of 2015’).
- (2) The Agreement of 2015 set out, for a period of 6 years as from its provisional application, the fishing opportunities granted to Seychelles vessels in the fishing zone under the sovereignty or jurisdiction of the Union in Mayotte. The period of application of that agreement expired on 20 May 2020.
- (3) On the basis of its Article 17, the Agreement was tacitly renewed for an additional period of 6 years.
- (4) On 24 October 2019, the Council authorised the Commission to open negotiations with Seychelles in order to conclude a new agreement⁶. Those negotiations were successfully concluded and a new agreement (hereinafter ‘the Agreement’) was initialled on 10 June 2022.
- (5) The objective 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 with Seychelles and its Implementing Protocol signed in 2020⁷, and to contribute to responsible fishing in EU waters and to developing fishery policy in Mayotte.

⁵ Council Decision 2015/238/EU of 10 February 2015 on the conclusion of the Fisheries Partnership Agreement between the European Union and the Republic of Seychelles (OJ L 40, 16.2.2015, p. 1–3).

⁶ 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 the Employment, Social Policy, Health and Consumer Affairs Council, 24 October 2019, ST-13311-2019-INIT.

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.

- (6) The Agreement should be signed on behalf of the Union, subject to its conclusion at a later date.
- (7) In order to allow, as soon as possible, the continuation of fishing activities by the vessels of the Republic of Seychelles, the Agreement should be applied provisionally upon its signature, however not earlier than as from 1 January 2023, and this decision should enter into force upon its adoption for reasons of better administrative management of fishing authorisations.
- (8) The European Data Protection Supervisor was consulted in accordance with Article 42 of Regulation (EU) 2018/1725⁸ of the European Parliament and of the Council and delivered an advice on [insert date].

HAS ADOPTED THIS DECISION:

Article 1

The signing of 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, subject to the conclusion of the said Agreement.

The text of the Agreement to be signed is attached to this Decision.

Article 2

The Council Secretariat General shall establish the instrument of full powers to sign the Agreement, subject to its conclusion, for the person indicated by the Commission.

Article 3

The Agreement shall be applied provisionally in accordance with Article 18 of the Agreement, as from the date of its signature but not earlier than from 1 January 2023, pending its entry into force.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*

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](#)).