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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.8.2009
COM(2009) 436 final

2009/0120 (CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion, on behalf of the European Community, of the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution

EXPLANATORY MEMORANDUM

1. The European Community is a party to regional agreements on marine pollution, such as the Bonn Agreement, the Barcelona Convention and the Helsinki Convention, which facilitate mutual assistance and cooperation between Member States in this field in the North, Mediterranean and Baltic Seas. After tanker ship *Aragon* caused a major oil spill off the coast of Madeira in 1990, Portugal initiated the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution (Lisbon Agreement), which creates a mechanism to ensure the cooperation between the Contracting Parties in case of pollution accidents, and obliges them to establish and implement their own emergency structures and plans. It applies to the north-east region of the Atlantic Ocean, defined by the external boundary of the Exclusive Economic Zone of each Contracting State, and by the boundaries of other regional agreements such as the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances (Bonn Agreement) and the Convention for the protection of the Mediterranean Sea against pollution (Barcelona Convention).

2. The Lisbon Agreement was signed on 17 October 1990 by Portugal, Spain, France, Morocco and the European Community. Although ratification followed by Portugal, France and the European Community, a political dispute over the borders in Western Sahara prevented Spain and Morocco from ratifying the Agreement because of Article 3 (c) on the geographical scope of the Agreement, which stipulated: "to the south by the southern limit of the waters covered by the sovereignty or jurisdiction of the Kingdom of Morocco."

3. After agreement was reached on an Additional Protocol amending Article 3 (c) of the Lisbon Agreement, the Protocol was signed by Portugal, Spain, France and Morocco on 20 May 2008 in Lisbon. The Community was invited to sign the Protocol together with other contracting parties. The Council Decision on the signing, on behalf of the European Community, of the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution was adopted on 12 December 2008. The Additional Protocol was co-signed on behalf of the European Community by the Czech Presidency and the Head of the European Commission Representation in Portugal on 25 March 2009.

4. It is therefore appropriate for the Community to conclude the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution.

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concerning the conclusion, on behalf of the European Community, of the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 175 (1), in conjunction with the first sentence of the first subparagraph of Article 300 (2) and the first subparagraph of Article 300 (3), thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Community is a Party to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution (the Lisbon Agreement) approved by Council Decision 93/550/EEC of 20 October 1993¹.
- (2) A political dispute over the borders in Western Sahara had prevented Spain and Morocco from ratifying the Lisbon Agreement. This dispute was now resolved by the Additional Protocol to the Lisbon Agreement modifying Article 3 (c) thereof.
- (3) Following the adoption of the Council Decision on the signing, on behalf of the European Community, of the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution on 12 December 2008, the Additional Protocol was signed, on behalf of the Community, on 25 March 2009.
- (4) The Additional Protocol to the Lisbon Agreement is open to ratification, acceptance or approval by the Parties. The Community and the Member States should take the necessary steps to allow the deposit, as far as possible simultaneously, of the instruments of ratification, acceptance or approval.
- (5) It is therefore appropriate for the Community to conclude the Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of North-East Atlantic against Pollution,

¹ OJ L 267, 28.10.1993, p. 20.

HAS DECIDED AS FOLLOWS:

Article 1

The Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution is hereby approved on behalf of the European Community.

The text of the Additional Protocol is set out in Annex to this Decision.

Article 2

1. The President of the Council is hereby authorised to designate the person or persons empowered to deposit, on behalf of the European Community, the instrument of approval with the Government of Portugal, in accordance with Article 3 (1) of the Additional Protocol.

2. The European Community and Member States parties to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution shall endeavour to deposit simultaneously, to the extent possible, their instruments of ratification, acceptance or approval of the Additional Protocol.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels,

For the Council
The President

ANNEX

Additional Protocol to the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution

The Portuguese Republic, the Kingdom of Spain, the French Republic, the Kingdom of Morocco and the European Community, hereinafter referred to as 'the Parties',

Aware of the need to protect the environment in general and the marine environment in particular,

Recognising that pollution of the North-East Atlantic Ocean by hydrocarbons and other harmful substances may threaten the marine environment and the interests of coastal States,

Taking into account the need to facilitate the rapid entry into force of the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution, done at Lisbon on 17 October 1990, hereinafter referred to as 'the Lisbon Agreement',

Have agreed as follows:

Article 1

Amendment to the Lisbon Agreement

Article 3(c) of the Cooperation Agreement for the Protection of the Coasts and Waters of the North-East Atlantic against Pollution, done at Lisbon on 17 October 1990 ('the Lisbon Agreement') is amended as follows:

"c) to the South by the Southern limit of the waters covered by the sovereignty or jurisdiction of any of the Parties."

Article 2

Relationship between the Lisbon Agreement and the Additional Protocol

This Protocol amends the Lisbon Agreement in accordance with the provisions of the previous Article and, in respect of the Parties to the Protocol, the Agreement and the Additional Protocol must be interpreted and applied as a single instrument.

Article 3

Consent to be bound and entry into force

1. This Protocol shall be submitted to the Parties for ratification, acceptance or approval, and the respective instruments shall be deposited with the Government of the Portuguese Republic.
2. This Protocol shall enter into force on the date on which the Government of the Portuguese Republic receives the final instrument of ratification, acceptance or approval.
3. No Party may indicate its consent to be bound by this Protocol without having previously or concurrently indicated its consent to be bound by the Lisbon Agreement in accordance with the provisions of Article 22.
4. Following the entry into force of this Protocol, any accession to the Lisbon Agreement in accordance with the procedure laid down in Articles 23 and 24 shall also indicate consent to be bound by this Protocol, the Parties being bound by the Lisbon Agreement as amended by Article 1 of this Protocol.

In witness whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done at Lisbon on the twentieth day of May 2008, in the Arabic, Spanish, French and Portuguese languages, the French text being authentic in the event of divergence.

FOR THE PORTUGUESE REPUBLIC

FOR THE KINGDOM OF SPAIN

FOR THE FRENCH REPUBLIC

FOR THE KINGDOM OF MOROCCO

FOR THE EUROPEAN COMMUNITY