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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.11.2009
COM(2009)650 final

Proposal for a

COUNCIL DECISION

Repealing Council Decision N° 2009/473/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 20 December 2008, the EC and Guinea initialled a new Fisheries Partnership Agreement (FPA) and a protocol covering the period from 1 January 2009 to 31 December 2012. The protocol has been under provisional application since 1 January 2009, as agreed by the Parties through an exchange of letters approved by Council Decision of 28 May 2009¹, pending adoption of the Council Regulation proposal on the conclusion of the FPA between the European Community and the Republic of Guinea².

However, following the tragic events of 28 September 2009, when Government forces opened fire on protesting crowds resulting in over 150 deaths, the Commission decided to initiate the necessary procedures to withdraw its proposal of a Council Regulation on the conclusion of the said Agreement on 20 October 2009, and informed the European Parliament and the Council thereof.

The proposal on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea was withdrawn on 11 November 2009 by Decision of the Commission³. According to International Law, the Council must therefore notify, on behalf of the European Community, to the Republic of Guinea the intention not to conclude the aforementioned Agreement.

According to Article 25 of the Vienna Convention on the Law of Treaties, the provisional application of a Treaty shall be terminated if one Party notifies to the other Party with which the Treaty is being applied provisionally of its intention not to become a party to the Treaty.

The Commission proposes, on this basis, that the Council repeal its Decision N° 2009/473/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea.

¹ 2009/473/EC, OJ L 156 of 19.06.2009
² COM(2009) 120 final, of 12.03.2009
³ PV (2009) 1894, of 13.11.2009, page 16

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) thereof,

Having regard to the proposal from the Commission⁴,

Whereas:

- (1) The protocol to the new Fisheries Partnership Agreement between the European Community and the Republic of Guinea that was initialled on 20 December 2008 has been under provisional application since 1 January 2009, as agreed by the Parties through an exchange of letters approved by Council Decision of 28 May 2009⁵, subject to conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea⁶,
- (2) The Commission decided to withdraw its proposal for a Council Regulation on the conclusion of the aforementioned FPA following the tragic events of 28 September 2009⁷, when Government forces opened fire on protesting crowds resulting in over 150 deaths,
- (3) It is therefore necessary to repeal Council Decision N° 2009/473/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea.

HAS DECIDED AS FOLLOWS:

Sole Article

Council Decision N° 2009/473/EC concerning the conclusion of an Agreement in the form of an Exchange of Letters on the provisional application of the Fisheries Partnership Agreement between the European Community and the Republic of Guinea is hereby repealed.

⁴ COM(2009) ... final, of ...

⁵ 2009/473/EC, OJ L 156 of 19.06.2009

⁶ COM(2009) 120 final, of 12.03.2009

⁷ PV (2009) 1894, of 13.11.2009, page 16

Done at Brussels,

For the Council