



EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

repealing Council Decision 2011/491/EU on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco

EXPLANATORY MEMORANDUM

The latest Protocol to the EU's Fisheries Partnership Agreement with Morocco was initialled on 25 February 2011. It was meant to cover a period of one year, between 28 February 2011 and 27 February 2012.

Having been signed by both Parties to the Agreement on 13 July 2011, the Protocol entered into provisional application, retroactively as of 28 February 2011, on the basis of Council Decision 2011/491/EU on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco.

For the Protocol eventually to be concluded by the Council on behalf of the EU, the European Parliament would have to consent to its conclusion, pursuant to Article 218(6)(a) of the Treaty on the Functioning of the European Union. However, on 14 December 2011, Parliament voted not to give its consent to the conclusion; on 15 December it formally notified the Council of this decision.

The European Union is thus not in a position to conclude the Protocol. According to Article 25(2) 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 on signing and provisional application of the Protocol, and that the Government of Morocco be informed of this Decision.

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repealing Council Decision 2011/491/EU on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(5), thereof,

Having regard to the proposal from the European Commission¹,

Whereas:

- (1) The Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco (hereinafter referred to as ‘the Protocol’) has been under provisional application since 28 February 2011, pursuant to Council Decision 2011/491/EU of 12 July 2011²,
- (2) In reply to the Council’s request of 15 July 2011, pursuant to Article 218(6)(a) of the Treaty on the Functioning of the European Union, the European Parliament voted on 14 December 2011 not to give its consent that the Council conclude the Protocol³,
- (3) It is therefore necessary to repeal Council Decision 2011/491/EU and to notify Morocco about the termination of the Protocol’s provisional application, in accordance with Article 25(2) of the Vienna Convention on the Law of Treaties,

HAS ADOPTED THIS DECISION:

Article 1

Council Decision 2011/491/EU on the signing, on behalf of the European Union, and the provisional application of the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the

¹ [add reference]

² OJ L 202, 5.8.2011, p. 1.

³ [add ref. to official notification]

Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco is hereby repealed.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to notify the Kingdom of Morocco, in accordance with Article 25(2) of the Vienna Convention on the Law of Treaties, that the European Union no longer intends to become a party to the Protocol. That notification shall be made in the form of a letter.

The text of the letter is annexed to this Decision.

Article 3

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

Article 4

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

Done at Brussels,

*For the Council
The President*

Annex

Letter from the European Union

Sir/Madam,

Referring to the Protocol between the European Union and the Kingdom of Morocco setting out the fishing opportunities and financial compensation provided for in the Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco, which was initialled on 25 February 2011, on its provisional application, as agreed in Article 12 of the Protocol and enacted through the signing of the Protocol by both Parties on 13 July 2011:

The European Union hereby notifies the Kingdom of Morocco that, in accordance with Article 25(2) of the Vienna Convention on the Law of Treaties, it no longer intends to become a party to the abovementioned Protocol.

Please accept, Sir/Madam, the assurance my highest consideration.

On behalf of the European Union,