



EUROPEAN COMMISSION

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Proposal for a

COUNCIL REGULATION

on the allocation of the fishing opportunities under the Protocol agreed between the European Union and the Republic of Madagascar setting out fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On the basis of a mandate from the Council¹, the European Commission has conducted negotiations with the Republic of Madagascar with a view to renewing the Protocol to the Fisheries Partnership Agreement between the European Community and the Republic of Madagascar. At the end of those negotiations, a new Protocol was initialled on 10 May 2012. The new protocol covers a period of two years from the date of its signature.

Specifically, the protocol provides for fishing opportunities for 96 vessels, divided as follows:

40 tuna seiners

34 surface longliners with a tonnage greater than 100 GT

22 surface longliners with a tonnage less than 100 GT

The method for allocating the fishing opportunities among the Member States should be defined.

The Commission proposes, on this basis, that the Council adopt this Regulation.

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

The Member States were consulted ahead of the negotiations in the framework of the Council Working Party on Fisheries and also in the framework of technical meetings. These consultations concluded that it would be beneficial to maintain a fishing protocol with Madagascar. The Commission has also based its work on, *inter alia*, the results of an ex-post assessment by independent external experts, which was finalised in November 2011.

3. LEGAL ELEMENTS OF THE PROPOSAL

The new Protocol to the Partnership Agreement was forwarded to the Council for approval of its signing and provisional application. It was also forwarded to the Council and Parliament with a view to its conclusion.

¹ Adopted on 24 April 2012 by the General Affairs Council.

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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(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 15 November 2007, the Council adopted Regulation (EC) No 31/2008 on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Madagascar (hereinafter referred to as the 'Partnership Agreement').
- (2) A new Protocol to the Partnership Agreement was initialled on 10 May 2012 (hereinafter referred to as the 'new Protocol'). The new Protocol grants EU vessels fishing opportunities in waters in which Madagascar exercises its sovereignty or jurisdiction as regards fishing.
- (3) On [...] the Council adopted Decision No .../2012/EU², on the signature and provisional application of the new Protocol.
- (4) The method for allocating the fishing opportunities among the Member States should be defined for the period in which the new Protocol applies.
- (5) Article 10(1) of Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters³ provides that the Commission will inform the Member States concerned if it appears that the fishing opportunities allocated to the Union under the new Protocol are not fully utilised. The absence of a reply within a time limit to be set by the Council is considered to be confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities during the period concerned. This time limit should be set.

² OJ C ...*

³ OJ L 286, 29.10.2008, p. 33.

- (6) Given that the Protocol in force will expire on 31 December 2012, this Regulation must apply as from the date the new Protocol is signed,

HAS ADOPTED THIS REGULATION:

Article 1

1. The fishing opportunities fixed under the Protocol agreed between the European Union and the Republic of Madagascar setting out fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force (hereinafter referred to as the 'Protocol') shall be allocated among the Member States as follows:

Type of Vessel	Member State	Fishing opportunities
seiners	Spain	21
	France	18
	Italy	1
	Total seiners	40
longliners (over 100 GT)	Spain	17
	France	9
	Portugal	5
	United Kingdom	3
	Total longliners > 100 GT	34
longliners (less than or equal to 100 GT)	France	22
	Total longliners </= 100 GT	22

2. Regulation (EC) No 1006/2008 shall apply without prejudice to the Fisheries Partnership Agreement between the European Union and the Republic of Madagascar.
3. If applications for fishing authorisations from the Member States referred to in paragraph 1 do not exhaust the fishing opportunities established by the Protocol, the

Commission shall consider applications for fishing authorisations from any other Member State, pursuant to Article 10 of Regulation (EC) No 1006/2008.

4. The time limit within which the Member States must confirm that they are not fully exhausting the fishing opportunities granted to them under the Agreement, as provided by Article 10(1) of Regulation (EC) No 1006/2008, is set at ten working days as from the date on which the Commission communicates this information to them.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from the date of the signature of the new protocol and at the earliest from 1 January 2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President