



Brussels, 31.10.2014
COM(2014) 682 final

2014/0318 (NLE)

Proposal for a

COUNCIL DECISION

on the signature, on behalf of the European Union, and provisional application of the Protocol setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Republic of Madagascar

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

On the basis of the powers conferred on it by 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 the negotiations a new draft protocol was initialled by the negotiators on 19 June 2014. The new Protocol covers a period of four years from the date of provisional application laid down in Article 15 – i.e. from the date of its signature and 1 January 2015 at the earliest.

The primary objective of the Protocol to the Agreement is to grant fishing opportunities to EU vessels in the fishing zone of the Republic of Madagascar, in line with the management measures adopted by the relevant Regional Fisheries Management Organisation, namely the Indian Ocean Tuna Commission (IOTC) and where relevant, in keeping within the limits of the available surplus. The Commission based itself in part on the results of an ex-post evaluation carried out by external experts.

The general objective is to enhance cooperation between the European Union and the Republic of Madagascar, thereby creating a partnership framework within which to develop a sustainable fisheries policy and sound exploitation of fishery resources in the fishing zone of the Republic of Madagascar, in the interests of both parties.

More specifically, the Protocol provides for fishing opportunities in the following categories:

- 40 tuna seiners;
- 32 surface longliners with a tonnage greater than 100 GT;
- 22 surface longliners with a tonnage less than or equal to 100 GT.

The Commission proposes, on this basis, that the Council, with the consent of the Parliament, adopt this new Protocol by Decision.

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

The interested parties were consulted during the evaluation of the Protocol for the period 2013-14. Experts from the Member States were also consulted in technical meetings. These consultations led to the conclusion that it would be beneficial to maintain a fishing protocol with the Republic of Madagascar.

3. LEGAL ELEMENTS OF THE PROPOSAL

This procedure is being initiated in parallel with the procedures relating to the Council Decision adopting the provisional application of the Protocol itself, as well as with the Council Regulation concerning the allocation of the fishing opportunities between EU Member States.

¹ Adopted by the Agriculture and Fisheries Council on 14 April 2014.

4. BUDGETARY IMPLICATION

The annual financial contribution, which is EUR 1 566 250 for each of the first two years of the Protocol and EUR 1 487 500 for each of the following two years, is based on: a) a reference tonnage of 15 750 tonnes linked to access, for an annual amount of EUR 866 250 for each of the first two years of the Protocol and EUR 787 500 for each of the following two years and b) support for the development of the sectoral fisheries policy of the Republic of Madagascar, amounting to EUR 700 000 per year. This support meets the objectives of the national fisheries policy and in particular the needs of the Republic of Madagascar in the fight against illegal fishing.

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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 15 November 2007 the Council adopted Council Regulation (EC) No 31/2008² on the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Madagascar.
- (2) The Council authorised the Commission to negotiate a new protocol to the partnership agreement granting European Union vessels fishing possibilities in the fishing zone over which Madagascar has jurisdiction. Following completion of those negotiations, a new draft Protocol was initialled on 19 June 2014.
- (3) In order to ensure the resumption of fishing activities by Union vessels, Article 15 of the new Protocol provides for the possibility of the Protocol being applied on a provisional basis by each of the Parties, from the date of its signature and by 1 January 2015 at the earliest.
- (4) This new Protocol should be signed and applied on a provisional basis, pending the completion of the procedures for its conclusion,

HAS ADOPTED THIS DECISION:

Article 1

The signature of the Protocol setting out the fishing opportunities and the financial contribution provided for by the Fisheries Partnership Agreement between the European Community and the Republic of Madagascar is hereby authorised on behalf of the Union, subject to the conclusion of the Protocol.

The text of the Protocol is attached to this Decision.

² OJ L 15, 18.1.2008, p.1.

Article 2

The Secretariat-General of the Council shall establish the instruments of full powers authorising the person(s) indicated by the negotiator of the Protocol to sign it, subject to its conclusion.

Article 3

The Protocol shall apply on a provisional basis, in accordance with Article 15 of the same, from the date on which it is signed and from 1 January 2015 at the earliest, pending completion of the procedures necessary for its conclusions.

Article 4

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

Done at Brussels,

*For the Council
The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Council Decision on the conclusion of the Protocol between the European Union and the Republic of Madagascar setting out the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the two parties currently in force.

1.2. Policy area(s) concerned in the ABM/ABB structure

11. – Maritime Affairs and Fisheries

11.03 – Compulsory contributions to regional fisheries management organisations (RFMOs) and other international organisations and sustainable fisheries agreements (SFAs).

1.3. Nature of the proposal/initiative

The proposal/initiative relates to the extension of an existing action.

1.4. Objective(s)

1.4.1 The Commission's multiannual strategic objective(s) targeted by the proposal/initiative

The negotiation and conclusion of fisheries agreements with third countries meets the general objective of giving EU fishing vessels access to fishing zones under the jurisdiction of third countries and developing partnerships with those countries with a view to strengthening the sustainable exploitation of fishery resources outside EU waters.

The Sustainable Fisheries Partnership Agreements (SFPAs) also ensure consistency between the principles governing the Common Fisheries Policy and the commitments made under other European policies (sustainable use of third-country resources, combating illegal, unreported and unregulated (IUU) fishing, integration of partner countries into the global economy and better political and financial governance of fisheries).

1.4.2 Specific objective(s) and ABM/ABB activity(ies) concerned

Specific Objective 1:

To contribute to sustainable fishing in non-EU waters, maintain a European presence in distant-water fisheries and protect the interests of the European fisheries sector and consumers by negotiating and concluding FPAs with coastal states, consistent with other European policies.

ABM/ABB activity(ies) concerned

To establish a governance framework for fishing activities carried out by Union fishing vessels in third country waters (SFAs) (budget line 11.03.01).

1.4.3 Expected result(s) and impact

The conclusion of the Protocol will help maintain fishing opportunities for EU vessels in the fishing zone of the Republic of Madagascar.

The Protocol will also contribute to better management and conservation of fishery resources, through financial support (sectoral support) for the implementation of programmes adopted at

national level by the partner country, in particular as regards monitoring and combating illegal fishing.

1.4.4 Indicators of results and impact

Rates of utilisation of fishing opportunities (uptake of fishing authorisations as a percentage of availability under the Protocol);

Gathering and analysing data on catches and the commercial value of the Agreement;

Contribution to employment and to added value in the EU and to stabilising the EU market (in aggregate with other SFPAs);

Number of technical meetings and meetings of the Joint Committee.

1.5. Grounds for the proposal/initiative

1.5.1 Requirement(s) to be met in the short or long term

The Protocol for the period 2013-14 will expire on 31 December 2014. It is intended that the new Protocol will apply provisionally as of 1 January 2015. To secure continuity of fishing operations, a procedure for adoption by the Council of a decision on the signature and provisional application of the Protocol has been launched in parallel with this procedure.

The new Protocol will provide a framework for the fishing activities of the European Union fleet in the Republic of Madagascar's fishing zone and will allow European vessel owners to apply for fishing authorisations allowing them to fish in the Malagasy fishing zone. In addition, the new Protocol enhances cooperation between the EU and the Republic of Madagascar, with a view to promoting the development of a sustainable fishing policy. It provides, in particular, for vessels to be monitored via VMS and for the electronic transmission of catch data. Until the relevant IT systems become operational, the transmission of catch data and fishing effort, via the usual channels, will be more frequent. Sectoral support has been strengthened to help the Republic of Madagascar meet its international obligations in terms of the State's responsibility to ensure monitoring of ports.

1.5.2 Added value of EU involvement

As far as this new Protocol is concerned, failure to act by the EU would allow the emergence of private agreements, which would not help strengthen the capacity of the third country in question to ensure governance for the fishing sector, and would provide less of a guarantee as to the sustainability of fishing activities. The European Union also hopes that with this Protocol, the Republic of Madagascar will continue to cooperate effectively with the EU particularly as regards the management of fishery resources and the fight against illegal fishing.

1.5.3 Lessons learned from similar experiences in the past

The under-use of fishing possibilities made available to certain segments of the European fleet under the previous protocol has resulted in the parties reducing fishing possibilities in these categories. The share of the contribution paid to the partner third country in exchange for access, by EU economic operators, has increased, whilst the EU share has reduced, in accordance with the principle adopted by the CFP reform applied in other protocols recently negotiated in the Indian Ocean. Sectoral support has been strengthened to take into account programmes previously implemented and to reflect the needs of the Republic of Madagascar's fisheries administration.

1.5.4 Compatibility and possible synergy with other appropriate instruments

Funds paid out under SFPAs constitute fungible revenue in the budgets of the third-country partners. However, the conclusion and monitoring of SFPAs is subject to the condition that some of these funds be assigned to the implementation of measures forming part of the country's sectoral policy. These financial resources are compatible with other sources of funding from other providers of international funding for carrying out projects and/or programmes at national level in the fisheries sector.

1.6. Duration and financial impact

Proposal/initiative of **limited duration**

Proposal/initiative in effect from 1.1.2015 until 31.12.2018.

Financial impact from 2015 to 2018

1.7. Management method(s) envisaged

Direct management by the Commission

By its departments, including by its staff in the Union delegations;

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

The Commission (DG MARE, in collaboration with its fisheries counsellor in Mauritius and the European Union's Delegation in Madagascar) will ensure regular monitoring of the implementation of this Protocol, particularly as regards operators' use of fishing opportunities and in terms of catch data.

The Sustainable Fisheries Partnership Agreement provides for at least one annual meeting of the Joint Committee, at which the Commission and the third country concerned review the implementation of the Agreement and the Protocol thereto and, if necessary, adjust the programming and, where applicable, the financial contribution.

2.2. Management and control system

2.2.1 Risk(s) identified

There is some risk in setting up a fisheries protocol, particularly with regard to the amounts intended to finance the sectoral fisheries policy (under-programming). These difficulties were not encountered with the Republic of Madagascar during the implementation of the 2013-14 Protocol.

2.2.2 Control method(s) envisaged

To avoid these risks, extensive dialogue is planned on the programming and implementation of the sectoral policy. Joint analysis of results, as referred to in Article 6(3) of the Protocol, also forms part of these control methods.

In addition, the Protocol contains specific clauses for its suspension, on certain conditions and in given circumstances.

2.3. Measures to prevent fraud and irregularities

The Commission undertakes to establish regular consultation and a political dialogue with the Republic of Madagascar with a view to improving the management of the Agreement and strengthening the EU's contribution to the sustainable management of fishery resources. In

any case, any payment which the Commission makes under an SFPA is subject to the Commission's standard rules and budgetary and financial procedures. This makes it possible, in particular, to fully identify the bank accounts of the third countries into which the financial contribution is paid. For this particular Protocol, Article 4(4) stipulates that the financial contribution must be paid into a single Public Treasury account held at the Central Bank of Madagascar.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

Existing expenditure budget lines

Following the order of multiannual financial framework headings and budget lines.

Heading of multi-annual financial frame-work	Budget line	Type of expenditure	Contribution			
	Number [Heading.....]	DA/ NDA ⁽³⁾	from EFTA countries ⁴	from candidate countries ⁵	from third countries	within the meaning of Article 18(1)(aa) of the Financial Regulation
2	11.0301 To establish a governance framework for fishing activities carried out by Union fishing vessels in third country waters (SFAs)	DA	None	None	None	None

New budget lines requested

(not applicable)

³ DA= Differentiated appropriations / NDA= Non-differentiated appropriations.

⁴ EFTA: European Free Trade Association.

⁵ Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

3.2.1 Summary of estimated impact on expenditure

EUR million (to 3 decimal places)

Heading of multi-annual financial framework:	Number 2	Preservation and management of natural resources
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DG: MARE			Year N ⁶ 2015	Year N+1 2016	Year N+2 2017	Year N+3 2018	TOTAL
• Operational appropriations							
Number of budget line: 11.0301	Commitments	(1)	1.566	1.566	1.488	1.488	6.108
	Payments	(2)	1.566	1.566	1.488	1.488	6.108
Appropriations of an administrative nature financed from the envelope of specific programmes ⁷							
Number of budget line: 11.010401		(3)	0.042	0.042	0.042	0.092	0.218
TOTAL appropriations for DG MARE	Commitments	=1+3	1.608	1.608	1.530	1.580	6.326
	Payments	=2+3	1.608	1.608	1.530	1.580	6.326

• TOTAL operational appropriations	Commitments	(4)	1.566	1.566	1.488	1.488	6.108
	Payments	(5)	1.566	1.566	1.488	1.488	6.108
• TOTAL appropriations of an administrative nature financed from the envelope of specific programmes		(6)	0.042	0.042	0.042	0.092	0.218

⁶ Year N is the year in which implementation of the proposal/initiative starts.

⁷ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

TOTAL appropriations for HEADING 2 of the multiannual financial framework	Commitments	=4+ 6	1.608	1.608	1.530	1.580	6.326
	Payments	=5+ 6	1.608	1.608	1.530	1.580	6.326

If more than one heading is affected by the proposal/initiative: (not applicable)

• TOTAL operational credits	Commitments	(4)					
	Payments	(5)					
• TOTAL appropriations of an administrative nature financed from the envelope of specific programmes		(6)					
TOTAL appropriations for HEADINGS 1 to 4 of the multiannual financial framework Commitments	Commitments	=4+ 6					
	Payments	=5+ 6					

Heading of multi-annual financial framework:	5	'Administrative expenditure'
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EUR million (to 3 decimal places)

		Year N ⁸ 2015	Year N+1 2016	Year N+2 2017	Year N+3 2018	TOTAL
						DG MARE
• Human resources		0.059	0.059	0.059	0.059	0.236
• Other administrative expenditure		0.010	0.010	0.010	0.010	0.040
TOTAL DG MARE	Appropriations	0.069	0.069	0.069	0.069	0.276

TOTAL appropriations for HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0.069	0.069	0.069	0.069	0.276
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EUR million (to 3 decimal places)

		Year N ⁹ 2015	Year N+1 2016	Year N+2 2017	Year N+3 2018	TOTAL
TOTAL appropriations	Commitments	1.677	1.677	1.599	1.649	6.602

⁸ Year N is the year in which implementation of the proposal/initiative starts.

⁹ Year N is the year in which implementation of the proposal/initiative starts.

for HEADINGS 1 to 5 of the multiannual financial framework	Payments	1.677	1.677	1.599	1.649	6.602
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3.2.2 Estimated impact on operational appropriations

The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to 3 decimal places)

Indicate the objectives and outputs			Year N 2015	Year N+1 2016	Year N+2 2017	Year N+2 2018	TOTAL					
	OUTPUTS											
	Type ¹⁰	Average cost of the output	Number	Cost	Number	Cost	Number	Cost	Number	Cost	Total No.	Total cost
SPECIFIC OBJECTIVE No 1... ¹¹												
- Access to the Fishing Zone	Volume (tonnes)	<u>N & N+1:</u> 55 EUR/t	15 750	0.866	15 750	0.866	15 750	0.788	15 750	0.788	63 000	3.308
		<u>N+2 & N+3:</u> 50 EUR/t										
- Sectoral support	Annual contribution	0.300	1	0.700	1	0.700	1	0.700	1	0.700	4	2.800
Sub-total for specific objective No 1				1.566		1.566		1.488		1.488		6.108
TOTAL COST				1.566		1.566		1.488		1.488		6.108

¹⁰ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

¹¹ As described in Section 1.4.2. 'Specific objective(s)...

3.2.3 Estimated impact on appropriations of an administrative nature

3.2.3.1 Summary

The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to 3 decimal places)

	Year N ¹² 2015	Year N+1 2016	Year N+2 2017	Year N+3 2018	TOTAL
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HEADING 5 of the multiannual financial framework					
Human resources	0.059	0.059	0.59	0.059	0.236
Other administrative expenditure	0.010	0.010	0.010	0.010	0.040
Subtotal HEADING 5 of the multiannual financial framework	0.069	0.069	0.069	0.069	0.276

Outside HEADING 5¹³ of the multiannual financial framework					
Human resources	0.036	0.036	0.036	0.036	0.144
Other expenditure of an administrative nature	0.006	0.006	0.006	0.056	0.074
Subtotal outside HEADING 5 of the multiannual financial framework	0.042	0.042	0.042	0.092	0.218

TOTAL	0.111	0.111	0.111	0.161	0.494
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The appropriations of an administrative nature required will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

¹² Year N is the year in which implementation of the proposal/initiative starts.

¹³ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.2 Estimated requirements of human resources

The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full amounts (or at most to one decimal place)

	Year N 2015	Year N+1 2016	Year N+2 2017	Year N+3 2018
• Establishment plan posts (officials and temporary agents)				
11 01 01 01 (Headquarters and Commission's Representation Offices)	0.30	0.30	0.30	0.30
11 01 01 02 (Delegations)				
• External personnel (in full-time equivalent – FTE)¹⁴				
11 01 02 01 (CA, SNE, INT from the 'global envelope')	0.15	0.15	0.15	0.15
11 01 02 02 (CA, LA, SNE, INT and JED in the delegations)				
11 01 04 01 ¹⁵	- at Headquarters ¹⁶			
	- in Delegations	0.25	0.25	0.25
Other budget lines (specify)				
TOTAL	0.7	0.7		0.7

11 is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	<p>Monitoring and management of the process for the (re)negotiation of the SFPA and the approval of the result of the negotiations by the institutions; management of the current SFPA, including permanent operational and financial monitoring; management of licences.</p> <p>Desk Officer DG MARE + Head of Unit/Deputy Head of Unit + secretarial staff:</p> <p>overall estimate of 0.45 FTE/year</p> <p>Unit cost EUR 132 000 /year</p> <p>Calculation of costs: 0.45 people/year x EUR 132 000 /year</p> <p>Total costs: EUR 59 400 => EUR 0.059 M</p>
External personnel	<p>Monitoring the implementation of the sectoral support - Contract Agent assigned to Delegation (Mauritius):</p> <p>overall estimate of 0.25 FTE/year</p> <p>Unit cost EUR 145 000 /year</p> <p>Calculation of costs: 0.25 FTE/year x EUR 145 000 /year</p>

¹⁴ CA= Contract Agent; LA= Local Agent; SNE = Seconded National Expert; INT = agency staff ('intérimaire'); JED = young expert in delegation ('jeune expert en délégation').

¹⁵ Sub-ceiling for external staff under operational appropriations (former 'BA' lines).

¹⁶ Essentially for Structural Funds, European Agricultural Fund for Rural Development (EAFRD) and European Fisheries Fund (EFF).

	Total costs: EUR 36 250 => EUR 0.036 M
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3.2.4 Compatibility with the current multiannual financial framework

The proposal/initiative is compatible with the current multiannual financial framework.

3.2.5 Third-party contributions

The proposal/initiative does not provide for co-financing by third parties.

3.3. Estimated impact on revenue

The proposal/initiative has no financial impact on revenue.