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2013/0228 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) No 1258/2012 of 28 November 2012 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 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 Protocol was initialled on 10 May 2012. The new protocol covers a period of two years as from 1 January 2013.

Specifically, the Protocol provides for fishing opportunities for 34 surface longliners of a tonnage greater than 100 GT and for 22 surface longliners of a tonnage less than 100 GT.

Part of the longliners' catches consists of sharks which, in terms of fisheries, are associated with tuna and similar species and are covered by measures adopted by the Indian Ocean Tuna Commission (IOTC).

Based on the latest opinions and recommendations of the Scientific Committee of the IOTC, and taking into account the vulnerability to fishing pressure of the shark species concerned, the Parties find it appropriate to limit the catches of these species in the Madagascar fishing zone to a level below, or equal to, the level of recent years.

At the most recent meeting of the Joint Committee set up under the Fisheries Agreement, the Parties thus agreed to set the level of authorised shark catches by EU longliners at a maximum of 200 tonnes annually for two years as from 1 January 2013, thereby freezing the fishing pressure on the basis of track records for the EU fleet, as validated for the 2007-11 period by scientific institutes in the EU.

The method for allocating fishing opportunities among the Member States thus needs to be defined.

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

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

The Member States were consulted in the framework of the Council Working Party on Fisheries, and at technical meetings both ahead of and in parallel to the Joint Committee meeting. The consultations led to the conclusion that tighter restrictions should be applied to shark catches, *inter alia* by setting a catch limit in accordance with the measures adopted by the IOTC.

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

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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 Council Regulation (EU) No 1258/2012 of 28 November 2012 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,

Having regard to the proposal from the European Commission,

Whereas:

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’).

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 with regard to fishing.

On 28 November 2012 the Council adopted Decision No 826/2012/EU² on the signing and provisional application of the new Protocol.

At a meeting held on 26 September 2012, the Joint Committee set up under Article 9 of the Partnership Agreement examined the issue of sharks caught in association with fisheries managed by the Indian Ocean Tuna Commission (IOTC). IOTC Resolution 05/05 deals with the management and conservation of such sharks, and fishing them is authorised within the framework of this Agreement.

At the Joint Committee meeting the Parties agreed, on the basis of track records for the period 2007-11 of longliners authorised to fish under the previous protocol to the Partnership

² OJ L 361, 31.12.2012, p. 11.

Agreement, as validated by the relevant scientific institutes, that it would be appropriate to limit shark catches by these vessels to a maximum of 200 tonnes annually for two years as from 1 January 2013, thereby freezing the fishing pressure on these shark stocks in line with the recommendation issued by the IOTC Scientific Committee.

The method for allocating shark catches among the Member States should be defined for the period of application of the Protocol currently in force by amending Council Regulation (EU) No 1258/2012 of 28 November 2012.

The Member States whose vessels are authorised to fish under this Regulation should have the possibility to exchange all or part of the fishing opportunities allocated to them with respect to sharks.

Given that the Protocol entered into force on a provisional basis on 1 January 2013, this Regulation should apply retroactively from that date,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following paragraph 1a shall be added in Article 1 of Regulation (EU) No 1258/2012:

‘1a. The fishing opportunities for sharks caught in association with fisheries managed by the Indian Ocean Tuna Commission (IOTC) in the context of surface longline fishing are hereby set at 200 tonnes per year, to be allocated among the Member States as follows:

Member State	tonnes
Spain	166
Portugal	27
France	7
Total	200

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Article 2

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

It shall apply with effect 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*