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COMMISSION STAFF WORKING DOCUMENT

EVALUATION

Accompanying the document

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of a protocol to the Sustainable Fisheries Partnership Agreement with the Government of the Republic of Liberia

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Table of contents

1. INTRODUCTION	2
Purpose and scope	2
2. BACKGROUND TO THE INTERVENTION	2
3. IMPLEMENTATION/STATE OF PLAY	3
4. METHOD.....	5
5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS	5
6. CONCLUSIONS.....	7
ANNEX 1: PROCEDURAL INFORMATION.....	9
ANNEX 2: STAKEHOLDER CONSULTATION.....	11
ANNEX 3: METHODS AND ANALYTICAL MODELS	12

1. INTRODUCTION

Purpose and scope

Bilateral sustainable fisheries partnership agreements (hereafter - SFPAs) between the EU and third countries are covered by the Common Fisheries Policy (CFP) regulation¹. SFPAs help to implement the CFP objectives internationally, ensuring that fishing activities of the EU fleet outside Union waters are based on the same principles and standards as those applied in EU waters. SFPAs are based on the principles of sustainability and best available scientific advice, transparency, non-discrimination, solidarity through partnership. All in all, SFPAs contribute to the establishment of a governance framework for external fishing activities². Furthermore, the EU commitment to promote ocean governance at a global level should be incorporated in newly negotiated SFPAs.

The Council Conclusions on the external dimension of the Common Fisheries Policy adopted on 19 March 2012, calls for an ex-post and ex-ante evaluation to be carried out by the Commission before negotiating a new protocol³. The need for an ex-ante and ex-post evaluation with an aim to inform decision-makers, before the negotiation directives by the Council are adopted is also confirmed in Article 31(10) of the CFP regulation. Ex-ante.

This staff working document (SWD) presents the results of a retrospective and ex-ante evaluation of the current Protocol (2015-2020) between the EU and Liberia, which will expire on 8 December 2020 and it is mainly based on a supporting study. The evaluation covers the period from the entry into force of the Protocol (9 December 2015) till the end of 2020. The ex-post evaluation is made on the basis of assessment criteria: effectiveness, efficiency, economy, coherence, relevance, EU added value and acceptability. The ex-ante analysis focuses on the identification of the main problems and needs, the objectives expected to be achieved, the available options (renewal or non-renewal of the Protocol) and their impacts together with the associated risks. The analysis also explain the possible benefits of a new Protocol as well as its added value for the EU.

2. BACKGROUND TO THE INTERVENTION

To explain the logic of this intervention, it is important to explain the rationale of SFPAs.

SFPAs are transparent, coherent and mutually beneficial tools that enhance fisheries governance for sustainable exploitation, fish supply and development of the fisheries sector in SFPA partner countries. SFPAs consist of three major parts: Agreements, which sets the main principles of the bilateral partnership, Protocol, which establishes in more detail elements such as the financial contribution, reference tonnage and functioning of the Joint Committee and the sectoral support component and Technical Annexes which provide the technical details of the implementing protocol. While once negotiated SFPA Agreements are automatically extended, the Protocols have to be renegotiated before their expiry. SFPAs are rendered operational through implementation Protocols that contain Technical Annexes. It is for this reason that the evaluation is needed (as

¹ Regulation (EU) 1380/2013 of 11 December 2013 the Common Fisheries Policy (OJ L354, 28.12.2013, p. 22);

² Overview of SFPA: http://ec.europa.eu/fisheries/cfp/international/agreements_fr;

³ Doc. 7086/12 PECHE 66.

explained in the introduction), in order to decide whether it is beneficial or not renewing the Protocol and, if so, under which conditions.

EU concludes fisheries partnership agreements with third countries to enable the EU fleet to fish surplus resources in the exclusive economic zone (EEZ) of partner countries (in this case - Liberia), in a legally regulated environment and in exchange for a financial contribution by the EU and ship-owners. The EU contribution is made up of two separate components: 1) EU access fee that gives access for the EU fleet to fisheries resources of a partner country; and 2) EU sectorial support devoted to development of the fisheries sector in partner countries. The EU public contribution is complemented by contributions paid by EU ship-owners.

Each SFPA is an exclusive agreement: once in place, EU vessels can only fish under this SFPA, and cannot enter into private agreements with the partner country. The SFPA ensures a level-playing field and establishes minimum standards for sustainable resource management as it includes provisions prohibiting the granting of more favourable conditions to other foreign fleets. The implementation of the Agreement and the Protocol is managed by a Joint Committee, composed of representatives of both parties.

The EU and Liberia concluded a bilateral Fisheries Partnership Agreement (FPA) in December 2015⁴. This agreement has three main objectives: To contribute towards resource conservation and environmental sustainability through rational and sustainable exploitation of living marine resources of Liberia, to protect the EU long-distance fleet and the employment linked to the fleet operating within SFPAs and to support the development of a sustainable fisheries sector in partner countries (sectoral support)... This Agreement provided fishing possibilities exclusively for highly migratory species for EU vessels fishing in Liberia waters. It entered into force on 9 December 2015. The existing Protocol, which expires on 8 December 2020 and thus has to be renegotiated, foresees a maximum of 34 EU tuna vessels to the fishing zone of Liberia (28 purse seiners and 6 surface longliners) in exchange of an annual amount for access of EUR 357 000 for the first year, EUR 325 000 for the second, third and fourth years, and EUR 292 500 for the fifth year, and a specific annual amount for the support and implementation of Liberia' sectoral fisheries policy of EUR 357 000 for the first year, EUR 325 000 for the second, third and fourth years, and EUR 292 500 for the fifth year. In addition, the ship-owners from two Member States (France, Spain) pay a minimum fee for access to Liberia waters.

The newly negotiated Protocol has to re-evaluate various existing components of the Protocol, such as reference tonnage, financial compensation (EU and ship-owners), fishing possibilities; technical conditions (embarking of seamen and observers; fishing of sharks; declaration of catches; support vessels, and other), and also include new elements if necessary.

3. IMPLEMENTATION/STATE OF PLAY

As regards the implementation of the Protocol, a number of areas are identified in order to reflect what the situation was like before the intervention started, and how it was expected to develop and other relevant points of comparison.

Utilisation of fishing opportunities. Overall uptake across fishing categories (seiners and longliners) during the first four years of the Protocol has ranged from 62% to 68%,

⁴ Adopted by [Council Decision \(EU\) 2016/1062](#) of 24 May 2016 (OJ L 177, 1.7.2016).

with a good utilisation for seiners 75-79% marginal for longliners vessels. A new protocol should reflect the number of active vessels and historical uptake of licences, and thus adjust fishing categories.

Catches and their reporting. Average volume of catches at the period 2015-2019 has been around 5000 tons, only exceeding the reference tonnage of 6500 tons foreseen in the current protocol in 2017 (7734 tons). The reference tonnage in the new Protocol should take into consideration historical catches. Regarding the reporting of catches, during the current Protocol there was no operational Electronic catch reporting system (ERS) system in place that would have allowed Liberia to receive information on catches on daily basis by electronic means. The ERS system is to be installed in the coming months, and the new Protocol will mark major improvements in this regard.

Landings. The Protocol did not mandate compulsory landing in Liberia, but included financial incentives in the form of reduction in the fishing authorisation fees in case of landing in a Liberia port. However, EU vessels have not used Liberia's ports since there are no suitable ports facilities in Liberia and the majority of the landings took place in Dakar and Tema. There is no dedicated industrial fishing port or quay area. Further developments of the Mesurado port are being considered for support under a next World Bank programme, but it is unlikely that investments will be completed in the short term. In view of this, and taking into account that EU purse seiners have already logistic bases in West Africa that serve their needs (i.e. Abidjan, Dakar, Tema), use of Liberian ports by EU purse seiners or by any EU fishing vessel of a certain capacity is unlikely in a foreseeable future.

Embarking of seamen. According to the Protocol, EU vessel owners had to employ at least 20% of seamen of African, Caribbean and Pacific (ACP) countries origin during the tuna fishing season in the fishing zone of third countries. EU vessels owners should endeavour to sign on three qualified Liberian seamen per vessel selected from a list submitted by Liberia to the EU. However, EU vessel owners did not employ Liberian seamen despite Liberia submitting lists of candidates as expected. The issue has been regularly raised by Liberia who considered employment of nationals as an opportunity for training and as an opportunity for Liberia to obtain some indirect economic benefits from the SFP. However, there is some reluctance from EU ship owners to recruit new presumably inexperienced crew members in view of the hazardous nature of purse seine fishing, which also means disembarking some of their regular experienced ACP crew members working on the same positions. The new Protocol will likely have to address this issue with possible review of this clause.

Embarking of observers. The current protocol foresees obligation for the EU vessels to embark Liberian observers designated by Liberia. This provision has been implemented only in 2016 with the embarkment of two observers. Logistical problems to embark more observers have been encountered other years. Nevertheless, to ensure transparency of fishing activities, EU vessels had scientific observers on board and ensured 100% voluntary observer coverage. The new protocol and in particular sectorial support should finance training of Liberian observers.

Sectorial support. The sectorial support under current protocol particularly concentrated on two main objectives, namely the implementation of an effective Monitoring, Control and Surveillance system (38% of total multiannual budget of EUR 1.625 million) and strengthening institutional, human and financial capacities of Liberia's National Fisheries and Aquaculture Agency (NaFAA) (43% of total budget), leaving other important areas, such as research and science, small scale fisheries, etc., behind. The new Protocol should aim to more fairly distribute sectorial support resources to cover adequately other areas as well.

Local Agent. Although not explicitly prescribed by the Protocol, the recruitment of a local agent to represent ship-owners is an implicit obligation for all activities associated with issuing of licences, observer boarding, submission of catch information etc. All EU vessels utilising fishing opportunities hired a local agent. However, EU ship-owners reported that financial charges associated were excessive and not always transparently imposed on EU ship-owners. The new protocol should better define the mandate of the agent, charges applicable, and to monitor their application.

4. METHOD

Short description of methodology

The evaluation was supported by a study that was carried out by an external consultant. The evaluation study was conducted between December 2019 and March 2020, under the guidance of an interservice group (ISG) and in the framework of the terms of reference. The methodology included analysis of available documentation and data, and consultation of Liberian and EU stakeholders (see Annex 2). The evaluation report was prepared in line with EU guidelines (including the ‘evaluation toolbox’), in particular on how to assess impacts on other countries, and methodological elements specific to the external dimension of the CFP (e.g. methods for assessing the socio-economic benefits of fisheries agreements).

Limitations and robustness of findings

The findings of the study are robust and reliable. The methodology for this evaluation included a review of literature and data, and consultations (some face to face, and some remotely) with stakeholders in Liberia and in the EU. In addition, secondary sources analysis and literature review complemented data from interviews.

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

Ex-post evaluation

The 2015-2020 Protocol between the EU and Liberia generally meets the minimum conditions of effectiveness, efficiency, economy relevance, coherence, acceptability and the EU added value and. The current Protocol can be broadly described as win-win deal for both parties, for Liberia on one side and the EU and ship-owners on the other.

Effectiveness. The protocol broadly succeeded in achieving its main objectives described under section 2. The fishing opportunities negotiated for the EU fleet in Liberia’ EEZ are aligned with limits imposed in the regional context and do not generate specific threats to either the stocks of highly migratory species under the management mandate of the International Commission for the Conservation of Atlantic Tunas (ICCAT), or to the marine ecosystems. The activities of the EU tuna fleet in Liberia’ EEZ are monitored through the reporting requirements set out in the Protocol in conformity with CFP and ICCAT standards and voluntary commitments which include, in particular, a 100% observer coverage. Unilateral measures implemented by EU operators through their Fisheries Improvement Plan further strengthened mitigation of environmental impacts of fishing. Therefore, the Protocol can be estimated to contribute towards sustainable exploitation of fisheries resources in the Liberia’s EEZ. However, Liberia encountered administrative difficulties to monitor EU vessels as a result of administrative problems, suggesting that the Electronic Reporting System foreseen by the Protocol, but not implemented as yet, remains relevant.

Efficiency. The Protocol is efficient. Whilst the fishing opportunities negotiated have not been fully utilised with respect to Protocol potential (22 fishing authorisations drawn out of a maximum of 34 on average, i.e. 65%), catches reached 77% of the reference tonnage on average with highly variable uptake between years (between 48% in 2016 and 121% in 2017). Compared to other access arrangements concluded by Liberia for access to highly migratory species, the cost of fishing opportunities, access fees paid by the EU party are below (15%) access fee paid by non-EU operators. As a result of the level of catches compared to the reference tonnage, the SFPA Protocol generated a positive return on investment with a EUR 18 value-added multiplier for every 1 EUR invested for access from the EU budget on average between 2016 and 2019. However, the share of value-added accruing to Liberia (11%) is modest, and limited to access payments in the absence of economic interactions.

Economy. The EU's sectoral support addresses Liberia's needs and is fully absorbed. The EU has disbursed access payments and contributions for sectoral support in a timely manner consistent with the protocol.

Relevance. The Protocol is still relevant to address the needs of the EU in terms of promotion of sustainable fishing practices in external waters, the needs of EU purse seine operators in terms of access to productive fishing grounds, and the need of Liberia in relation to extracting benefits from tuna resources available in its EEZ and integration of the country in the fisheries international community.

Coherence. The Protocol is coherent with the current CFP in general and with the overarching conservation and management regime implemented under the multilateral framework of ICCAT. The sectoral support component of the agreement is utilised to support capacity building for the management of fisheries in national waters, and complements other EU interventions, in particular those provided under the European Development Fund (EDF) PESCAO project⁵ and the technical assistance programme to NaFAA.

The EU added value. Compared to any other mechanism for gaining fisheries access for EU vessels in the tuna fisheries segment, the Protocol has delivered a wide range of valuable benefits to both the EU and Liberia parties, in terms of sustainability and national development. However, from NaFAA perspective, EU added value would have been more evident if dialogue could include at the same time all fisheries issues of priority for the country (SFPA, illegal, unreported and unregulated fishing (IUU) and sanitary controls). Also, EU operators prefer the SFPA/Protocol multiannual framework over a private agreement.

Acceptability. EU ship-owners utilising the fishing opportunities negotiated are generally satisfied with the conditions set up by the Protocol and clearly support its renewal. Liberia authorities also expressed their broad satisfaction, and there is no perceived reticence from Liberia regarding the principle of negotiations for the renewal of the Protocol after 2020 which will seek to increase national benefits. The Liberia civil society has overall little awareness of the SFPA but supports it as far as it supports NaFAA capacity building. However, the civil society would like to see some of the sector support directly benefiting the small-scale fishers or to promotion of employment of nationals.

⁵ The project 'Improved regional fisheries governance in western Africa (PESCAO)' was adopted by Commission Decision C(2017) 2951 of 28 April 2017

Ex-ante evaluation

The ex-ante evaluation of a possible future protocol to the EU/Liberia SFPA, outlines the key needs to be met by both Liberia and the EU.

Shared needs of both parties are:

- sustainable resource exploitation, and
- a fair sharing of benefits between the two parties.

It describes and assesses three possible options.

- The renewal of the Protocol implementing the SFPA concluded between the EU and Liberia for an extended multiannual period (status quo), or
- The non-renewal of the Protocol.

Two different sub-options may be considered for the negotiation of a new Protocol implementing the SFPA for a next multiannual period:

- A new Protocol considering only fishing opportunities for EU tuna vessels (purse seiners, surface longliners and possibly pole and liners) – a tuna only Protocol
- A new Protocol considering fishing opportunities for EU tuna vessels and for EU fishing vessels targeting demersal species such as fish, cephalopods and crustaceans – a multispecies Protocol

In reviewing the results of the four options, the evaluation finds that in view of the risks generated by a multispecies Protocol in terms of stock sustainability, but also in view of the potential difficulties to derive socio-economic benefits from the activities of non-tuna vessels, the sub-option consisting in negotiating a tuna only Protocol emerges as the most appropriate.

The non-renewal of the Protocol does not appear to be a desirable option. The non-renewal of the Protocol notably deprives the EU from an instrument capable of responding to the needs of the various stakeholders and to its own needs in terms of strengthening the global fisheries governance in the Atlantic Ocean.

6. CONCLUSIONS

The protocol can be broadly described as a ‘win-win’ arrangement, in that it addresses the identified needs of the various stakeholders.

Renewal of the agreement emerges clearly as the preferred option. No other option, including that of not renewing the protocol or negotiating a multispecies protocol, would bring the same benefits.

A possible future protocol should be based on a similar technical and financial approach, with some technical adaptations to improve the conditions for embarkment of observers and national seamen as well as for improving the electronic reporting system.

The evaluation can draw the following conclusions and made specific recommendations:

(1) In terms of fishing opportunities, a status quo is recommended for the maximum number of purse seiners and long-liners to keep some flexibility margins. Introduction of

fishing opportunities for tuna pole and liners may be envisaged, but with associated provisions for catching live bait, the two being indissociable elements of their deployment strategies.

(2) In terms of financial conditions, a comparable level of reference tonnage may be carried over under a next Protocol. The catch levels used to determine the value of the non-refundable part of access fees paid by EU ship-owners may be increased to lower the variable part of access fees and hence increase visibility for budget forecasts by Liberia.

(3) Concerning technical conditions, it does not appear appropriate nor relevant to mandate employment of national seamen on board EU tuna vessels through a next Protocol. Promotion of employment of national seamen should be considered under a next sectoral support programme with possibly financial contributions from EU ship-owners. The implementation of an Electronic Reporting System should also be a priority under a next Protocol to ensure that all parties have a same level of information on EU fishing activities in the EEZ.

To sum up, the Commission supports the conclusions of the assessment made by the contractor in favour of a renewal of the protocol to the SFPAs with Liberia. However, and due to the ongoing IUU dialogue (on 23 May 2017, the Republic of Liberia was notified of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (the so-called “yellow card”) by Commission Decision 2017/C 169/12 under Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing), negotiations will not start until the current yellow card is reversed.

APPENDIX 1: PROCEDURAL INFORMATION

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

Responsible DG: DG MARE – Maritime Affairs and Fisheries/ PLAN/2019/5254

2. ORGANISATION AND TIMING

An inter-service group (ISG), included DG MARE, DG for International Cooperation and Development (DEVCO), the Secretariat-General (SG) and European External Action Service (EAAS), was established to steer the preparation of this evaluation. The evaluation was carried out between November 2019 and March 2020.

The evaluation was also supported by a study carried out by an external consultant between the same periods.

Tasks	Time
Signature of the contract	15 November 2019
Kick-off meeting	21 November 2019
Report of the Kick-off meeting	22 November 2019
Submission of the inception report	13 December 2019
Comments to the inception report	27 December 2019
Meeting to discuss inception report	Exchange in written with the Steering committee
Submission of the draft final report	27 February 2020
Meeting to discuss draft final report	5 March 2020
Submission of the final report	23 March 2020

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

The legal and procedural requirements for the preparation of the renewal of fisheries protocols lead to a tight schedule which prevents the holding of an open public consultation. Moreover, the impact of SFPA is relatively limited, as they focus on a small number of stakeholders. The consultation strategy excludes open public consultations.

4. CONSULTATION OF THE RSB (IF APPLICABLE)

Not applicable.

5. EVIDENCE, SOURCES AND QUALITY

The evaluation is based on the study of “Retrospective and Ex-ante evaluation study of the Protocol to the Agreement on a Sustainable Fisheries Partnership between the European Union and the Republic of Liberia” that was carried out by a consultant.

Additional information sources for this evaluation were used through scientific advice reviews, literature reviews, Joint Committee meetings minutes, bilateral/multilateral discussions/consultations with Member States and civil society organisations, including the LDAC.

Last but not least, the evaluation process and the final evaluation report were subject to a quality assessment by the Steering Committee.

APPENDIX 2: STAKEHOLDER CONSULTATION

In line with its guidelines and the ‘better regulation toolbox’, the Commission presented a strategy for consultation when preparing negotiations for the renewal of FPA protocols. The strategy involves determining the best means of consulting relevant stakeholders in the EU and the partner country concerned.

Objectives

The aim of the consultation is:

- to gather stakeholders’ views on the implementation of the previous/ongoing protocol and its possible renewal, including the various options; and
- to feed into the evaluation report (a Commission working document to be prepared before the opening of negotiations on the basis of an evaluation study by an external contractor).

Approach to consultation

The main stakeholders concerned with the protocol, are:

- owners of vessels flying Member States’ flags and benefiting from the protocol; representatives or associations of ship-owners benefiting from the protocol;
- NGOs;
- the Liberian authorities;
- representatives of the Member States’ authorities; and
- the private sector and civil society.

Detailed results

These results are presented in Annex 3 to the study⁶.

⁶ <https://op.europa.eu/en/publication-detail/-/publication/f407575c-6d7e-11ea-b735-01aa75ed71a1/language-en>

APENDIX 3: METHODS AND ANALYTICAL MODELS

Economic analysis

A harmonised methodology has been developed for the economic analysis of the tuna fleets, which fish in the framework of SFPAs and RFMOs. The data used correspond to the data provided by EU Member States to the contractor.

Science

The analysis of the scientific advice on the state of the stocks and the recommendations, focusing on the potential and the state of stocks of highly migratory species (tuna and associated species), with an emphasis on Liberia's EEZ. The evaluators did not carry out stock assessments, as such, but have used the latest available scientific advice on the state of the stocks and management measures, the most recent, adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT) for the tuna stocks.

The data on the catches and fishing authorisations

The catch data for EU vessels used in the evaluation were extracted from the European Commission consolidated catch database, which is updated by the EU Member States. The information concerning the fishing authorisations granted by Liberia to the EU vessels were extracted from the Commission database on fishing authorisations.