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EUROPEAN COMMISSION

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2010/0292 (NLE)

Proposal for a

COUNCIL REGULATION

concerning the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Community and Federated States of Micronesia

EXPLANATORY MEMORANDUM

On the basis of relevant Council mandate¹, the Commission on behalf of the European Union negotiated with the Federated States of Micronesia (FSM) in view of renewing the Protocol to the Fisheries Partnership Agreement between the European Community and FSM. Following these negotiations, a new Protocol was initialled on 7 May 2010, which covers a period of five years starting from the adoption of this Council decision on the Protocol's signing and provisional application and replaces the previous Protocol which expired on 25 February 2010.

This procedure concerning the allocation among the Member States of the fishing opportunities under this Protocol is started in parallel with the procedures regarding the Council decision, with the consent of the European Parliament, on the conclusion of the new Protocol, and the Council decision on the signing, on behalf of the EU, and the provisional application of the said Protocol.

The new Protocol provides EU fishermen with fishing opportunities in FSM EEZ for 6 purse seiners and 12 long liners. In accordance with the Treaty, the method for allocating the fishing opportunities among the Member States should be defined.

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

¹ Council Decision n° 8877/2010 of 26 April 2010

Proposal for a

COUNCIL REGULATION

concerning the allocation of fishing opportunities under the Protocol to the Fisheries Partnership Agreement between the European Community and Federated States of Micronesia

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) A new Protocol to the Fisheries Partnership Agreement between the European Community and Federated States of Micronesia (hereinafter: Protocol) was initialled on 7 May 2010.
- (2) Council has adopted on ...Decision No.../2010/EU² on the signing and provisional application of the new Protocol.
- (3) The method for allocation the fishing opportunities among the Member States should be defined for the duration of the new Protocol as well as for the period of its provisional application.
- (4) In order to ensure that the fishing opportunities available to the European Union under this Protocol are used in full, it is necessary that the Commission be empowered to temporarily reallocate fishing opportunities not used by one Member State to another Member State, without affecting the allocation or the exchange of fishing opportunities among the Member States under the Protocol.
- (5) This Regulation should enter into force on the first day following that of its publication in the *Official Journal of the European Union*, namely with a view to ensure fishing activities after the expiry of the previous Protocol on 25 February 2010.

² OJ L

HAS ADOPTED THIS REGULATION:

Article 1

1. The fishing opportunities set out in the Protocol to the to the Fisheries Partnership Agreement between the European Community and Federated States of Micronesia referred to in Decision No.../2010/EU on the signing and the provisional application of the Protocol to the Fisheries Partnership Agreement shall be allocated among the Member States as follows:

a) Tuna purse seiners

Spain	5 vessels
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France	1 vessel
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b) Surface long liners:

Spain	12 vessels
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2. Without prejudice to the provisions of the Fisheries Partnership Agreement and the Protocol, 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 waters shall apply³.

3. If applications for fishing authorisations from the Member States referred to in paragraph 1 do not cover all the fishing opportunities set by the Protocol, the Commission shall consider applications for fishing authorisations from any other Member State pursuant to Article 10 of Council Regulation (EC) No 1006/2008.

4. If it appears that the number of fishing opportunities as set in paragraph 1 are not fully utilised, the Commission shall inform the Member States concerned and shall request them to confirm not making use of those fishing opportunities. The absence of a reply within the deadline of ten working days shall be considered as confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities in the given period. After confirmation by the Member State concerned, the Commission shall decide on the reallocation of the fishing opportunities among the Member States.

Article 2

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

³ OJ L 286, 29.10.2008, p. 33.

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

Done at Brussels,

For the Council
The President