



Council of the
European Union

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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	9 September 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations on behalf of the European Union for the conclusion of an Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to the waters of Mayotte

Delegations will find attached document COM(2019) 407 final.

Encl.: COM(2019) 407 final



Brussels, 9.9.2019
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Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of an Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to the waters of Mayotte

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE RECOMMENDATION

• **Reasons for and objectives of the recommendation**

The Commission proposes to negotiate a new agreement between the European Union and the Republic of Seychelles on access for fishing vessels flying the flag of the Seychelles to waters and marine biological resources of Mayotte, under the jurisdiction of the European Union. The Commission intends to carry out the negotiations for the new access's agreement in parallel with the negotiations of a new Sustainable Fisheries Partnership Agreement and a new protocol with the Republic of Seychelles.

• **Consistency with existing policy provisions in the policy area**

On 11 July 2012, the European Council adopted Decision 2012/419/EU¹ amending, with effect from 1 January 2014, the status of Mayotte with regard to the European Union. From that date, Mayotte ceased to be an overseas country or territory, and became an outermost region of the Union within the meaning of Article 349 of the Treaty on the Functioning of the European Union (TFEU). As a consequence, the exclusive economic zone (EEZ) of Mayotte became EU waters.

As a result, in 2014 the European Union and Seychelles signed an agreement that ensured the operations of Seychelles flagged vessels in the EEZ of Mayotte, under the jurisdiction of the France.

The current agreement allows 8 Seychelles vessels to fish in the waters of Mayotte, and will expire on 6 June 2020. The payment of the licences and catches by ship-owners of Seychelles' fleet is the only financial compensation under this agreement, and it is collected by France for the account of its outermost region Mayotte. These revenues are used by France for setting up of the appropriate legislative framework, control activities, physical infrastructure and for the provision of appropriate capacity building in order for the administration of Mayotte to meet the requirements of the Common Fisheries Policy (CFP). The agreement contributes to responsible fishing in EU waters, as to guarantee the conservation and sustainable exploitation of fisheries resources.

This agreement has no financial implications for the EU.

• **Consistency with other Union policies**

The negotiation of a new Agreement with Seychelles to access the waters of Mayotte under EU jurisdiction is in line with the EU's external action towards African, Caribbean and Pacific (ACP) countries, and in particular with the Union objectives regarding the respect of democratic principles and human rights.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• **Legal basis**

The legal basis for the decision is provided by Article 218 of the Treaty on the Functioning of the European Union (TFEU), in Part Five on the Union's external action, Title V on international agreements, which sets out the procedure for negotiating and concluding agreements between the EU and third countries.

¹ OJ L 204, 31.7.2012, p. 131.

- **Subsidiarity (for non-exclusive competence)**

Not applicable, exclusive competence.

- **Proportionality**

The decision is proportional to the objective.

- **Choice of the instrument**

The instrument is provided for under Article 218(3) and Article 218(4) of the TFEU.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

The agreement to access the waters of Mayotte by Seychelles' vessels has no financial implications for the EU. Nevertheless, the Commission's *ex-post* and *ex-ante* evaluation of the Fisheries Partnership Agreement with Seychelles and of its implementing protocol², also reviewed how the access's agreement has been operating.

This evaluation, carried out in 2019, concluded that the agreement to access the waters of Mayotte should be renewed together with a new implementing Protocol to the Fisheries Partnership Agreement with Seychelles, as to continue aligning the technical and financial conditions of the two texts.

- **Stakeholder consultations**

Member States, industry representatives, international civil society organisations, as well as Seychelles fisheries administration and civil society, were consulted as part of the *ex-post* and *ex-ante* evaluation of the Fisheries Partnership Agreement with Seychelles and of its implementing Protocol. Consultations have also taken place in the framework of the Long Distance Advisory Council, notably at the occasion of its meeting on 27 March 2019.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The negotiating directives, proposed as an annex to the decision, recommend authorising the opening of negotiations including a clause on the consequences of violations of human rights and democratic principles.

² <https://publications.europa.eu/en/publication-detail/-/publication/5e1b1689-7785-11e9-9f05-01aa75ed71a1/language-en/format-PDF/source-97941423>

4. BUDGETARY IMPLICATIONS

The agreement to access the waters of Mayotte by Seychelles' vessels has no financial implications for the EU.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Negotiations are expected to open in the third quarter of 2019.

- **Detailed explanation of the specific provisions of the recommendation**

The Commission recommends that:

- The Council should authorise the Commission to open and conduct negotiations for the conclusion of a new agreement with Seychelles to access the waters of Mayotte under EU jurisdiction by Seychelles' vessels;
- The Commission should be nominated as the EU negotiator on this subject;
- The Commission should conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;
- The Council should approve the negotiating directives annexed to this recommendation.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations on behalf of the European Union for the conclusion of an Agreement between the European Union and the Republic of the Seychelles on access for fishing vessels flying the flag of the Seychelles to the waters of Mayotte

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218 (3) and (4) thereof,

Recalling the European Council Decision of 11 July 2012 amending the status of Mayotte with regard to the European Union³,

Having regard to the recommendation from the European Commission,

Whereas negotiations should be opened with a view to concluding an agreement between the European Union and the Republic of the Seychelles relating to the access of Seychelles flagged vessels to waters of the European Union, namely the exclusive economic zone (EEZ) off the coast of Mayotte,

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate with the Republic of Seychelles an agreement relating to the access for fishing vessels flying the flag of the Republic of Seychelles to waters and marine biological resources of the Union, namely to waters and marine biological resources in the EEZ off the coast of Mayotte.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the [name of the special committee designated by the Council].

³ OJ L 204, 31.7.2012, p. 131.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*