



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

on the conclusion of an Agreement in the form of an exchange of letters concerning the provisional application of the Fourth Protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other

(presented by the Commission)

EXPLANATORY MEMORANDUM

The 3rd Protocol to the Fisheries Agreement between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other expires on 31 December 2000. A new Protocol setting out the technical and financial conditions governing the fishing activities of Community vessels in Greenland waters during the period 1 January 2001 to 31 December 2006 was initialled by both parties on 13 September 2000.

The purpose of the attached proposal for a Council Decision is to obtain Council approval for the provisional application of a 4th Protocol to the Fisheries Agreement with Greenland. This will provide continuity of fishing operations by Community vessels under the Agreement in the interim period before the adoption of the corresponding Council Regulation on the conclusion of the 4th Protocol.

The Commission proposes, on this basis, that the Council adopt, by Decision, the draft Agreement in the form of an exchange of letters concerning the provisional application of the new Protocol pending its definitive entry into force.

A proposal for a Council Regulation on the conclusion of the new Protocol is the subject of a separate procedure.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 300(2) thereof,

Having regard to the proposal from the Commission^a,

Whereas:

- (1) Pursuant to the Agreement between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other, on fishing in the Greenland Exclusive Economic Zone waters^b, the Community and the Government of Denmark and the Home Rule Government of Greenland conducted negotiations on a new implementing protocol intended to cover the years 2001-2006;
- (2) As a result of those negotiations, a new Protocol was initialled on 13 September 2000;
- (3) Under this new Protocol, Community fishermen will enjoy fishing opportunities in waters under the jurisdiction of Greenland from 1 January 2001 to 31 December 2006;
- (4) The Protocol in question must be applied as of 1 January 2001 if fishing activities by Community vessels are not to be interrupted. To that end, the two Parties initialled an Agreement in the form of an exchange of letters providing for the provisional application of the initialled Protocol from the day after that on which the Protocol in force expired. That Agreement should be approved pending a final decision to be adopted in accordance with Article 37 of the Treaty;

^a OJ C , , p. .

^b OJ L 29 of 1.2.1985, p. 9.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters concerning the provisional application of the 4th Protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Community, on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other is hereby approved on behalf of the Community.

The texts of the Agreement in the form of an exchange of letters and the Protocol are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the persons empowered to sign the Agreement in the form of an exchange of letters in order to bind the Community.

Done at Brussels,

*For the Council
The President*

AGREEMENT

in the form of an exchange of letters concerning the provisional application of the Protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other hand, for the period from 1 January 2001 to 31 December 2006

A. Letter from the Government of Denmark and Home Rule Government of Greenland

Sir,

With reference to the Protocol laying down the conditions relating to fishing, initialled on 13 September 2000 for the period from 1 January 2001 to 31 December 2006, I have the honour to inform you that the Government of Denmark and the Home Rule Government of Greenland are prepared to apply that Protocol provisionally from 1 January 2001 until its entry into force in accordance with Article 13 of the said Protocol, provided that the European Community is prepared to do the same.

It is understood that, in this case, the payment of the financial compensation stipulated in Article 11 of the Protocol is effected by the beginning of the fishing year.

I should be obliged if you would confirm that the European Community is in agreement with such provisional application.

Please accept, Sir, the assurance of my highest consideration.

For the Government of Denmark and the
Home Rule Government of Greenland

B. Letter from the European Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"With reference to the Protocol laying down the conditions relating to fishing, initialled on, 13 September, 2000 for the period from 1 January 2001 to 31 December 2006, I have the honour to inform you that the Government of Denmark and the Home Rule Government of Greenland are prepared to apply that Protocol provisionally from 1 January 2001 until its entry into force in accordance with Article 13 of the said Protocol, provided that the European Community is prepared to do the same.

It is understood that, in this case, the payment of the financial compensation stipulated in Article 11 of the Protocol is effected by the beginning of the fishing year.

I should be obliged if you would confirm that the European Community is in agreement with such provisional application. "

I have the honour to confirm the agreement of the European Community to this provisional application.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union

FOURTH PROTOCOL

laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Community, on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other.

The European Community, on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other,

Having regard to the Agreement on fisheries between the European Community, on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other,

HAVE AGREED AS FOLLOWS:

Article 1

1. This Protocol shall apply to fishing activities from 1 January 2001 to 31 December 2006.
2. The quotas referred to in Article 2 of the Agreement shall be fixed at the following quantities for each year:

Species	(tonnes)	
	Western stock (NAFO 0/1)	Eastern stock (ICES XIV/V)
Cod	2,000 ^a	
Redfish	5,500	25,500 ^b
Greenland halibut	1,500	4,800
Shrimp	-	5,675
Halibut	200 ^c	200 ^c
Catfish	300	300
Blue whiting	-	15,000 ^d
Capelin	25,000	
Roundnose grenadier	1,350	2,000

3. Notwithstanding the quotas under paragraph 2 the Community may fish up to the reference quantities laid down in Annex I. This shall be without further financial compensation than laid down in Article 11. The quotas will be adapted annually or at other intervals in the light of available scientific information.

^a May be fished West or East

^b May be fished East or West and of which a maximum of 20,000 tonnes may be fished by pelagic trawl. Catches from the bottom trawl fishery and the pelagic trawl fishery shall be reported separately.

^c If bycatches by Community vessels of Atlantic halibut in trawl cod and redfish fisheries would imply overruns of Community quotas of Atlantic halibut, the Greenland authorities will provide solutions to the effect that Community cod and redfish fisheries nevertheless can continue until the cod and redfish quotas have been exhausted.

^d 70% of the Greenland share of the capelin TAC.

4. The quota for shrimp in East Greenland may be fished in areas West of Greenland provided that arrangements for quota transfers between shipowners from Greenland and the Community have been established on a company-to-company basis. The Greenland Home Rule Government shall undertake to facilitate such arrangements. The transfers of quotas can only take place within a maximum of 2,000 tonnes annually in areas of West Greenland. The fishery carried out by the Community vessels shall take place on the same conditions as laid down in the licence issued to the Greenlandic shipowner.
5. Greenland undertakes to grant each year a quantity of 2,000 tonnes of snow crab to temporary joint ventures or joint enterprises within the meaning of Articles 4 and 5.

Article 2

The quantities referred to in the first paragraph of Article 7 of the Agreement are hereby set at the following levels each year:

(tonnes)		
Species (tonnes)	Western stock (NAFO 0/1)	Eastern stock (ICES XIV/V)
Cod	52,250 ^a	
Redfish	2,500	5,000
Greenland halibut	4,700	-
Shrimp	25,000	1,500
Catfish	4,000	-

Article 3

Greenland shall give a special preference to companies from Member States of the Community in connection with the negotiation of contracts concerning such quantities of cod, or other species, which it offers for over-the-side sales or cod-end-transfers in situations where the capacity of the Greenland fish processing plants is insufficient to process the quantities fished by the Greenland fishing fleet. Such contracts will be negotiated directly on a commercial basis.

Article 4

For the purpose of Article 8a of the Agreement the following definition shall apply:

Temporary joint venture means any association based on a contractual agreement of limited duration between Community shipowners and physical or legal persons in Greenland, with the aim of jointly fishing for and exploiting Greenland fishing quotas by vessels flying the flag of a Member State of the European Community and sharing the cost profits or losses of the economic activity jointly undertaken, with a view to the priority supply of the Community market.

Joint enterprises means any company regulated by Greenland law comprising one or more Community shipowners and one or more partners in Greenland, with the aim of fishing for

^a May be fished West or East

and possibly exploiting Greenland fishing quotas in the waters under the sovereignty and/or jurisdiction of Greenland by vessels flying the flag of Greenland with a view to the priority supply of the Community market.

Article 5

The Parties shall assess the projects for the temporary joint ventures and joint enterprises provided for in Article 4. The projects shall be assessed in accordance with the methods and criteria set out in Annex II.

Article 6

In order to encourage the establishment of joint enterprises referred to in Article 4, financial assistance may be granted in accordance with conditions laid down in Council Regulation 2792/1999.

Article 7

A Joint Committee shall be set up to oversee the application of Articles 5 and 6 of this Protocol. The duty of this Committee shall be, in particular, to:

- assess the projects presented by the Parties for the establishment of temporary joint ventures and joint enterprises provided for in Article 4, in accordance with the criteria set out in Annex II;
- review the activities of vessels belonging to temporary joint ventures and joint enterprises in Greenland waters before the end of their contract.

The Joint Committee shall meet at the request of either Party.

Article 8

The conditions concerning access to resources of temporary joint ventures are laid down in Annex III.

Article 9

The Parties shall promote the conduct of experimental fisheries on, inter alia, deep sea species, snow crab and squid in Greenland waters. To this end, they shall hold consultations whenever one of the Parties so requests and determine, on a case-by-case basis, relevant species, conditions and other parameters. Furthermore, they shall explore whether projects for experimental fisheries can benefit from financial assistance.

Article 10

In order to give effect to the cooperation obligations laid down in Article 9 of the Agreement, the Parties undertake to establish closer contact with a view to determining relevant areas of cooperation, in particular in the framework of regional fisheries organisations and in the field of research.

In this context, the Parties acknowledge the importance of an efficient control and enforcement Scheme in the regional fisheries organisations to which both Parties adhere.

They agree to co-operate with a view to facilitating an effective implementation of such Schemes on the practical level within the capacity of each Party.

Article 11

1. The financial compensation referred to in Article 6 of the Agreement shall, during the period of validity of this Protocol, be fixed at 42,820,000 Euro (€) payable annually at the beginning of each fishing year.
2. The compensation shall be adjusted during the course of each fishing year in proportion to the supplementary quota allocated to the Community, calculated on the basis of cod equivalents under Article 8 of the Agreement.
3. Greenland shall make available to the Community a quantity of 20,000 tonnes of cod equivalents, which the Community may use for the purposes of acquiring supplementary catch possibilities. The adjusted compensation referred to in paragraph 2 may consist of up to 50% of these cod equivalents.
4. The procedure to be followed as regards the allocation of supplementary catch possibilities under Article 8 of the Agreement is set out in Annex IV.

Article 12

Failure to implement the commitments laid down in this Protocol may, without prejudice to the provisions of Article 7 and 10 of the Agreement, entail a corresponding reduction in the commitments referred to in Articles 1 and 11 of this Protocol.

Article 13

This Protocol shall enter into force on the date of its signature. It shall apply from 1 January 2001. The Parties shall notify each other on the completion of the procedures necessary for this purpose.

Article 14

1. No later than 30 June 2003 the Parties shall meet with a view to assessing the effectiveness of the Protocol.
2. They shall review and assess the adequacy of this Protocol and if necessary propose amendments. In this context they shall assess the overall relationship between the Parties and assess whether additional instruments should be developed and implemented to better address the development needs of Greenland.
3. Following the entry into force of this Protocol, the Parties undertake to prepare the review meeting referred to in paragraph 1. To this end, they will establish appropriate contacts and exchange material which they deem appropriate.

No later than four months before the meeting referred to in paragraph 1, the Parties shall notify each other of the subject matters which they intend to raise and, as appropriate, their possible proposals for amendments.

4. Two months following the notification, the Parties shall enter into consultations with a view to preparing the review meeting and examining any possible proposals for amendments.
5. Following the completion of the review meeting the Parties shall notify each other of the acceptance by their respective Authorities of any proposed amendments.

Article 15

This Protocol shall be drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish and Swedish language, each text being equally authentic.

The Greenland authorities will provide a translation into Greenlandic of the Protocol.

Annex I
Reference quantities

(in tonnes)

Species	Western stock (NAFO 0/1)	Eastern stock (ICES XIV/V)
Cod	31,000 ^a	-
Redfish	5,500	47,320 ^b
Greenland halibut	1,500	4,800
Shrimp	-	5,675
Halibut	200 ^c	200 ^c
Catfish	1,000	1,000
Blue whiting	-	15,000
Capelin	25,000	^d
Roundnose grenadier	3,350	4,650

^a May be fished West or East

^b 25,500 tonnes may be fished East or West and of which a maximum of 20,000 tonnes may be fished by pelagic trawl. Catches from the bottom trawl fishery and the pelagic trawl fishery shall be reported separately.

^c If bycatches by Community vessels of Atlantic halibut in trawl cod and redfish fisheries would imply overruns of Community quotas of Atlantic halibut, the Greenland authorities will provide solutions to the effect that Community cod and redfish fisheries nevertheless can continue until the cod and redfish quotas have been exhausted.

^d 70% of the Greenland share of the capelin TAC

Annex II

Methods and criteria for project assessment

1. The Parties shall exchange information on the projects presented for the formation of temporary joint ventures and joint enterprises according to Article 4 of this Protocol.
2. The projects shall be presented to the Community via the competent authorities of the Member State or Member States concerned.
3. The Community shall submit to the Joint Committee a list of projects concerning temporary joint ventures and joint enterprises. The Joint Committee shall assess the projects in accordance inter alia with the following criteria:
 - (a) technology appropriate to the proposed fishing operations;
 - (b) target species and fishing zones;
 - (c) age of the vessel;
 - (d) in case of temporary joint ventures, the total duration and that of fishing operations.
 - (e) previous experience of the Community shipowner and any Greenlandic partner in the fisheries sector.
4. The Joint Committee shall issue an opinion on the projects following the assessment under point 3.
5. In the case of temporary joint ventures, once the projects have received a favourable opinion from the Joint Committee, the Greenland Authority shall issue the necessary authorisations and fishing licences.

Annex III

Conditions concerning access to resources of temporary joint ventures in Greenland

1. Licences

The fishing licences to be issued by Greenland shall have a validity equal to the duration of the temporary joint ventures. Fishing shall take place on quotas allocated by the Greenland Authority.

2. Replacement of vessels

A Community vessel operating under a temporary joint venture may be replaced by another Community vessel with equivalent capacity and technical specifications only on duly justified grounds and with the agreement of the parties.

3. Fitting-out

Vessels operating under temporary joint ventures shall comply with the rules and regulations applicable in Greenland regarding fitting-out, which regulation shall be applied without discrimination between Greenland and Community vessels.

4. Catch declaration

(a) All Community vessels shall forward to the Greenland Authority a catch declaration in accordance with Greenlandic fishery regulations.

(b) A copy of the catch declaration shall be forwarded to the European Commission.

(c) In the event of these provisions not being complied with, the Greenland Authority may suspend the fishing licence of the vessel involved until the said formalities have been complied with.

5. Scientific observers

At the request of the Greenland authority, Community vessels fishing pursuant to this Protocol shall permit a scientific observer designated by the said Authority to come on board to perform his tasks. The observer shall be provided with all the facilities necessary for the exercise of his functions.

The conditions of his stay on board shall be the same as those of the other officers of the vessel. Observers remunerations and social security contributions shall be paid by the Greenland authorities. The costs of his stay on board shall be borne by the owner of the vessel.

Annex IV

Supplementary catch possibilities

1. The authorities responsible for Greenland undertake to offer to the Community by 15 November each year such supplementary catch possibilities referred to in Article 8 of the Agreement, which at the time are expected to be available the following fishing year.

The Community shall inform the authorities responsible for Greenland of its reaction to the offer no later than 6 weeks after receipt of the offer. If the Community either declines the offer or does not react within 6 weeks, the authorities responsible for Greenland will be free to offer the supplementary catch possibilities to other parties.

2. If at any time during the fishing year additional supplementary catch possibilities under Article 8 of the Agreement are identified, which exceed the catch possibilities contained in the offer referred to in paragraph 1, the authorities responsible for Greenland shall offer the Community such additional possibilities.

The Community shall inform the authorities responsible for Greenland of its reaction to the offer no later than 6 weeks after receipt of the offer. If the Community either declines the offer or does not react within 6 weeks, the authorities responsible for Greenland will be free to offer the supplementary catch possibilities to other parties.

FINANCIAL STATEMENT

1. TITLE OF OPERATION:

Fourth Protocol laying down the conditions relating to fishing provided for in the Agreement on fisheries between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other

2. BUDGET HEADING INVOLVED: B7-8000

3. LEGAL BASIS:

- Article 37 of the Treaty, in conjunction with Article 300(2) and (3) first subparagraph
- EC/Greenland Agreement (OJ L 29, 1.2.1985, p.9)

4. DESCRIPTION OF OPERATION

4.1 General Objective: Protocol and Annex for six years

4.2 Period covered and arrangements for renewal

Period: 1 January 2001 to 31 December 2006

Review: no later than 30 June 2003

Renewal arrangements: negotiation prior to the expiry of the Protocol

5. CLASSIFICATION OF EXPENDITURE OR REVENUE

5.1 DO

5.2 CD

6. TYPE OF EXPENDITURE:

The financial compensation is a flat sum, fixed for the six-year period, to be paid annually to the Greenland Home Rule Government entirely from the Commission's budget.

7. FINANCIAL IMPACT

7.1 Method of calculating total cost of operation (definition of unit costs)

The total financial compensation to be paid is €42,820 million per annum.

The Community made a unilateral declaration assessing the current value of the fisheries components of the total financial compensation at €28 million per annum. This amount was derived using the quotas in art. 1 par. 2 of the protocol, present market prices (August 2000), exploitation costs, the estimated value of the snow crab quotas and the value of the option to increase these quotas.

Compensation can be adjusted annually in proportion to supplementary quotas allocated to the Community. These adjustments can consist up to 50% of all or part of 20,000 tonnes of cod equivalents made available to the Community.

The remainder of the annual compensation, €14,820 million per annum, is assumed to cover non-fisheries components of the Agreement, including the development and co-operation needs of Greenland.

7.2 Itemised cost breakdown

Breakdown (current million €)	2001	2002	2003	2004	2005	2006	Total
Financial contribution referred to in Article 11	42,820	42,820	42,820	42,820	42,820	42,820	256,920
Total	42,820	42,820	42,820	42,820	42,820	42,820	256,920

The financial impact of the outcome of the review, to be undertaken no later than 2003, cannot be forecasted at this time.

7.3 Schedule for proposed new operation in € million (current prices)

	2001	2002	2003	2004	2005	2006	Total
Commitment appropriations	42,820	42,820	42,820	42,820	42,820	42,820	256,920
Payment appropriations	42,820	42,820	42,820	42,820	42,820	42,820	256,920

The financial impact of the outcome of the review, to be undertaken no later than 2003, cannot be forecasted at this time.

8. FRAUD PREVENTION MEASURES; RESULTS OF MEASURES TAKEN

Since a financial contribution is paid by the Community for services rendered (fishing opportunities and others) and neither the Agreement nor the Protocol have any specifications in this domain, it may be used by the authorities of Greenland as they see fit.

The Protocol foresees the implementation of a joint Committee to oversee the activities of temporary joint ventures and joint enterprises as described in art. 4.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

- ***Fishing quotas:*** The quotas as laid down in Art. 1 (2) have been partly reduced compared to the Third Protocol in order to fix fishing opportunities which are really available. This is the case with cod (from 31,000 t to 2,000 t), redfish (from 52,320 t to 31,000 t), catfish (from 1,000 t to 300 t), blue whiting (from 30,000 t to 15,000 t), roundnose grenadier (from 8,000 t to 3,350 t) and polar cod (deleted). At the same time, the Community has the option to fix higher quotas, in most cases up to the levels of the Third Protocol, for cod, redfish, catfish and roundnose grenadier without any additional financial compensation. An adaptation within the limits laid down in a table of reference quantities is possible at any time in the light of available scientific information (see Art. 1 (3) in connection with Annex I of the Protocol). At the request of Greenland, the quantities to be allocated to the Faeroe Islands which are laid down in Art. 1 (2) and (5) of the Third Protocol have been integrated into the new quota tables.
- ***New fishing opportunities:*** For the first time, the fishing opportunities include quotas on the Western capelin stock (25,000 t). Greenland will also grant annually 2,000 t of snow crab to temporary joint ventures or joint enterprises.
- ***Experimental fisheries:*** An extra article has been introduced on the promotion of experimental fisheries (Art. 9), esp. on deep sea species, snow crab and squid. Decisions will be taken on a case-by-case basis.
- ***Increased East-West flexibility:*** The limit within which shrimp may also be fished in areas West of Greenland has been increased from 1,000 t to 2,000 t annually. As a novelty, the possibility has been introduced to fish on the Eastern redfish quota in the West.
- ***Carry-over of the 3d. Protocol cod bank:*** 20.000 tonnes of cod equivalents, with an estimated value of €7,3 million, are made available to the Community to partly offset the cost of acquiring supplementary catch possibilities.
- ***Inclusion of over-the-side sales and cod-end transfers:*** The preference given to Community companies in the case Greenland offers fish for over-the-side sales and cod-end transfers due to insufficient processing capacities, which was already included in the Agreed Record on the negotiations for the Third Protocol, has been laid down in the Protocol itself (Art. 3). In addition, the provision is now also applicable to other species than cod.
- ***Closer co-operation:*** A new article has been introduced aiming at establishing closer co-operation in the framework of regional fisheries organisations, in particular with a view to the implementation of control and enforcement schemes, and in the field of research (Art. 10).

- ***Temporary joint ventures/joint enterprises:*** The inclusion of temporary joint ventures and joint enterprises into the Protocol has been maintained. However, due to changes in Community legislation on these matters, financial assistance has been abolished in the case of temporary joint ventures and related to the conditions laid down in Council Regulation (EC) No 2792/99 in the case of joint enterprises.
- ***Review clause:*** A review clause has been introduced laying down the procedure leading up to the review of the adequacy of the new Protocol and of the overall relationship between both Parties. It shall take place not later than 30 June 2003.

In addition to the direct sale value of catches, the Agreement also offers the following advantages:

- guaranteed employment on board fishing vessels;
- the multiplier effect on jobs for the ports, auctions, processing factories, shipyards and service industries in the regions concerned;
- these jobs are created in regions where there are few alternatives to fishing;
- supply to the Community market in fishery products.

Clearly, the list of advantages must include the importance of relations with Greenland, both in the fisheries sector and in the political sphere and the pivotal role of the Fisheries Agreement with Greenland for the proper functioning of the Community's fisheries agreements with other third countries. It must also be noted that the Parties agreed that Greenland shall not receive any financial aid by virtue of its OCT status during the period of application of the 4th Protocol unless agreed otherwise after the review required under art. 14 of the Protocol.

10. ADMINISTRATIVE EXPENDITURE (PART A OF THE BUDGET)

The Protocol provides for a mid-term review process that has to be completed before 2004 that will involve external participants and several Commission services. In addition, the functioning and implementation of the provisions of the Protocol must be monitored while it is in force and an evaluation of the application of the Protocol must be complete immediately prior to its expiration. It is estimated that these activities will require an additional ½ person per annum for all the Commission services.