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**DRAFT COMMUNICATION TO THE COUNCIL OF MINISTERS AND THE
PARLIAMENT**

**MID TERM REVIEW OF THE FOURTH FISHERIES PROTOCOL BETWEEN THE
EU AND GREENLAND**

INTRODUCTION

The fourth protocol of the fisheries agreement with Greenland entered into force in January 2001 and is subject to a mid-term review clause, according to which the Commission will have to submit proposals no later than the end of February 2003.

The aim of the present communication is to explain why this review, far from being a routine operation, requires addressing now the political challenge facing the future of European Union - Greenland relations (Part 1).

It then lays down the main features of a political commitment between EU, Greenland and the Danish Kingdom, ensuring that after 2007, the relations will be based on a comprehensive partnership for sustainable development (Part 2).

Lastly, it sets out a framework for negotiation between the Commission and the Greenland authorities with the view of adjusting the fourth protocol on fisheries within the expected time schedule of the mid-term review (Part 3).

1. SHORTCOMINGS AND OPPORTUNITIES OF THE PRESENT EU - GREENLAND RELATIONSHIP

1.1. Background

Greenland, a region of Denmark, became part of the Community alongside its mother country in 1973. The internal status of Greenland was changed by the Home Rule Act, which came into force on 01.05.1979. In a consultative referendum in February 1982, 52 % of voters were in favour of withdrawal from the Community. Consequently, Denmark proposed to modify the Treaties. On 1 February 1985, the Treaty of withdrawal of 13 March 1984, or "**Greenland Treaty**"¹, came into force and granted to Greenland the status applicable to the Overseas Countries and Territories (OCT) associated with the Community².

The Greenland Treaty also emphasises co-operation and development aspects. In its preamble, it refers to "arrangements being introduced which permit close and lasting links between the Community and Greenland to be maintained and mutual interests, notably the development needs of Greenland, to be taken into account". Furthermore, the preamble states that, whilst OCT status is deemed to provide an appropriate framework for the relations with Greenland, "additional specific provisions are needed to cater for Greenland".

A **Protocol on special arrangements** for Greenland attached to the treaty of withdrawal states that Greenland shall enjoy unrestricted and duty free access to the Community market for its fisheries products on condition that the Community is granted satisfactory possibilities for access to the Greenland waters under a fisheries agreement.

¹ Treaty amending, with regard to Greenland, the Treaties establishing the European Communities, OJ No. L 29/19, of 1. 2. 1985, p. 1

² Articles 182-188 of and Annex II to the EU Treaty

1.2. The legal framework - fisheries

The fisheries relations between the Community and Greenland are governed by 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”³, or **Fisheries Agreement** - , the negotiation and conclusion of which were intrinsically linked to Greenland’s withdrawal from the Community and the conclusion of the Greenland Treaty.

The Fisheries Agreement was concluded for an initial period of ten years, after which it may be tacitly extended for additional six-year periods unless terminated by either Party through notice of termination given at least nine months prior to the expiry of each period. It is implemented by successive protocols.

The Fisheries Agreement draws upon the principles of the Greenland Treaty. Its preamble explicitly refers to both “the spirit of co-operation resulting from the Community’s decision to grant the status of overseas territory to Greenland” as well as the aforementioned Protocol on special arrangements for Greenland. Furthermore, the preamble acknowledges “the vital importance to Greenland of fisheries, which constitute an essential economic activity” and emphasises that “for the Community, the maintenance of the fishing activities, in Greenland waters, of vessels flying the flag of a Member State plays an essential part in the proper functioning of the common fisheries policy”.

In this vein, the Fisheries Agreement is designed to provide the Community with both catch quotas in Greenland waters as well as a special priority on access to supplementary catch possibilities in Greenland waters in return for the payment of a financial compensation to Greenland. The Fisheries Agreement also provides that the Community catch quotas may be taken by non-Community vessels to the extent to which this is necessary for the proper functioning of fisheries agreements between the Community and third countries. The latter possibility has allowed the agreements on reciprocal access with the Faeroe Islands, Iceland and Norway to be balanced either in full or in part without adversely affecting existing quota allocations within Community fishing waters.

In line with the object and purpose of both the Greenland Treaty and the “Protocol on special arrangements for Greenland”, the Fisheries Agreement was not confined to fisheries matters but it also intended to serve the purposes of co-operation in the development of Greenland. More particularly, Greenland continued to receive the same amount of money as it received in financial assistance when it was part of the Community and these funds have been made available to Greenland only by way of the Fisheries Agreement.

1.3. The legal framework - The OCT status.

The OCT status extended to Greenland by the treaty of withdrawal is laid down in the current Articles 182 to 188 of the EU Treaty, which also cover other territories linked with France, the Netherlands and the United Kingdom. Those Articles are implemented by means of successive Council Decisions, of which the last one is the 'Overseas Association Decision' of 27 November 2001⁴. They define the global relationship between the 20 OCTs and the European Community, with the notable exception for Greenland of the special provisions on fisheries outlined above.

³ OJ L 29 of 1.2.1985, p. 8

⁴ Decision 2001/822/EU of 27.11.2001, OJ L 314, 30.11.2001, p.1

Because of that exception, although Greenland has been covered by the different Council Decisions pertaining to the association of the OCT's, financial assistance from the EDF cannot be provided during the period of application of the successive fisheries protocols. This situation has in practice prevented Greenland and the Community from co-operating in many areas covered by the Decision. Instead, Greenland has managed its own development policy in an autonomous way.

However, other instruments of the OCT association are available to Greenland. The most important is the non-reciprocal trade regime, the most generous granted to any Community partner, which has in particular ensured the unlimited duty free access to the Community market for their fisheries products.

The EC programmes and budget lines open to all OCTs also offer valuable opportunities e.g. in the areas of scientific research and technological development, environment, NGO, education, culture and training.

1.4. Overall picture of the Greenland situation

In the spirit of the Greenland Treaty, which specifies in its preamble that "the Treaty should permit close and lasting links between the Community and Greenland to be maintained and mutual interests, notably the development needs of Greenland, to be taken into account", the fourth protocol on fisheries must be assessed considering the overall picture of the Greenland situation.

At a first glance, the economy of Greenland is confronted with a long lasting and severe crisis. According to the last OECD assessment⁵ the GDP has been flat in real terms for the last ten years, and major structural adjustment is needed to create the basis for a recovery.

This situation is largely due to the crisis of fisheries, as fisheries are the backbone of the economy of Greenland: not only do they form the main component of private domestic activities, but fisheries also ensure 90% of the foreign balance of payment in external resources, in a country which is almost totally dependent on imports.

The crisis of fisheries itself draws attention on the huge environmental damage caused to Greenland by the accumulation of impacts related to global unsustainability: the reduction of fish stocks, perceptible in the early 70's has been accelerated by the combined effects of excessive fishing in the North Atlantic area and changes in water temperature. In addition, the global pollution (persistent organic pollutant and heavy metals) is now affecting animal species and human health and eating those species is progressively regulated, if not prohibited by the Greenland authorities. Plans for increased oil and gas activities in the Arctic Sea create a growing concern for potentially harmful environmental effects.

The specific structures of the Greenland economy, characterised by a large public sector (where most technical assistance is provided by the Danish civil servants) and adverse conditions of climate and population dispersion make it impossible for the weak local private sector alone to achieve the necessary investments. Large scale public interventions are still needed to cope with the restructuring of the fishing industry, modernisation of communication, training and care of a population whose life expectation is 12 years less than the OECD average.

⁵ OCDE – Greenland's economy: building a strategy for the future; DOC.DT/TDPC (99)10

In the short term, these economic difficulties result in public finance fragility, rendering the Greenland government highly dependent on the block grants issued by the Danish government (about 40% of GDP) and on the EU financial compensation paid under the fisheries protocols(4% of GDP). From a cultural and political point of view, Greenland enjoys profound historical linkages with the Kingdom of Denmark and therefore also with the EU. There are signs of a further devolution of responsibility from Denmark to the Home rule government of Greenland. This perspective should be seen in a triangular relationship between Greenland, Denmark and the EU.

1.5. Inadequacies of the fisheries agreement and protocols.

A broad assessment of the past achievements should first recognise that the fisheries agreement, concluded almost 20 years ago, has ensured the continuation of a high financial support to Greenland after withdrawal from the Community, and the OCT Decision has granted the free access of Greenland products into the community market. Reciprocally, the Community has obtained stable fishing quota and a preference on surplus stocks against the payment of a financial compensation. The fisheries agreement also played an important role in the relation to the agreement with Norway, the Faeroe Islands and Iceland, facilitating the balance in the reciprocal exchange of fishing possibilities between the EU fleets and those countries.

Nevertheless, a realistic evaluation of the fisheries protocols should also consider the persistent and growing shortcomings of their implementation:

From the beginning, the quantities of fish available under the Protocols have been worth very much less than the level of financial compensation. Although the Greenland authorities have a more positive evaluation of the situation; already at the time of the conclusion of the first Protocol in 1985, there was virtually no cod available and only low abundance of redfish in Greenland waters.

This situation is confirmed by the figures for the first year of implementation of the fourth protocol. With the exception of capelin, redfish, shrimp and Greenland halibut, the utilisation by Community vessels of the quotas available under the Protocol is extremely low. In 2001, barely 19% of the redfish quota, less 3% of the catfish quota and less than 1% of the roundnose grenadier quota was taken. Of the cod quota of 2000 tonnes, the catches by Community vessels amounted to 225 tonnes. Not only the financial compensation foreseen by the 4th protocol at the level of 42,8 million Euros exceeded the value of the fishing possibilities, estimated by the Commission to be around 28 millions Euros, but even those possibilities have been far from being reached. This is partly explained by the discrepancy between the scientific advice on the state of the stocks and the setting of quotas that are unrealistic with respect to this advice. The most striking example is for cod, where the scientific advice is for a zero catch but where the Community continues to be allocated a quota of 2000 tonnes under the Protocol.

Successive protocols have aimed at adjusting the financial compensation to reflect nominal increases in catch quotas and to allow for inflation. Unlike the fisheries protocols recently concluded with other countries the fourth protocol is entirely lacking in any specific provision for targeted actions on structural measures to support Greenland's efforts to modernise or restructure its fisheries sector. Both the Court of Auditors and the European Parliament have argued for the need for transparency (i.e. clear identification of the payments corresponding to

effective fishing possibilities) and compliance with the usual budgetary rules on development co-operation, also emphasised in the Commission's Green Paper on fisheries.(section 5-8-2)⁶

These shortcomings are largely due to the need to strike a compromise overcoming the constraints created by the withdrawal of Greenland from the European Community. According to this assessment, the mid-term review should provide an opportunity to engage in a process leading to a more transparent relationship as to the cost of the fisheries agreement and at the same time, to a streamlining of the development co-operation.

1.6. Opportunities in development and foreign policy areas

As pointed out in the assessment of the overall economic and social situation of Greenland (point 1.4. above), a number of promising issues for co-operation and development could be raised in the context of European Union-Greenland relationship, even beyond the fisheries related concerns.

Co-operation could be developed, in a broad framework of supporting sustainable development in the arctic region, as a matter of mutual concern, both for Greenland and for the European Union.

In Greenland itself, several critical issues concerning sustainable growth and employment creation have been brought up by the Greenland authorities as possible areas for assistance: veterinary controls; alternative possibilities for oil and minerals; sound water management; improved communication and housing facilities provided to dispersed population; education of the labour force; scientific co-operation using the opportunity of the unique "laboratory on climate change" provided by Greenland.

More broadly, Greenland has a key role to play as an Arctic partner, within the broader circle including Sweden and Finland, as well as Iceland, Norway, Russia, Canada and the United States. In this context, the European Commission will work to strengthen the co-ordination of our sectoral initiatives in the Arctic, in order to ensure a consistent overall approach to matters such as the environment, research, and sustainable development questions in both our internal and external policies. In the specific field of our external relations, Arctic matters will already be mainstreamed in the second Northern Dimension action plan (2004-2006, currently under preparation), and this focus will certainly be maintained in the continuing evolution of this key policy area. The importance of Greenland in the perspective of the Arctic Window of the Northern Dimension was indeed particularly highlighted during the recent Northern Dimension ministerial meeting in Ilulissat in August 2002.

The sustainability concern, whose strategic importance has been underlined by the adoption in Gothenburg of the European sustainable development strategy, commends the promotion of the arctic co-operation, including a pro-active and supportive participation of Greenland.

1.7. Short and long term inter-relations

By assessing the present stage of the EU-Greenland relations, the Commission believes that:

- there is a clear need to adjust the implementation of the 4th Fisheries Protocol, ensuring greater transparency and consistency with the overall community ruling on budgetary and development policy;

⁶ COM(2001)135 du 20.3 2001.

- there is also a strategic need to broaden and strengthen the future relations between the EU and Greenland, linking it with the mutual interest in sustainable development in the Arctic area;
- the short and long term requirements are inter-related: taking into account the specific nature of the fisheries protocol and also the structural problems facing Greenland, an immediate adjustment of the protocol should be based on a long term political joint commitment by the EU, the Kingdom of Denmark and Greenland.

2. PROPOSAL FOR A NEW PARTNERSHIP ON SUSTAINABLE DEVELOPMENT BETWEEN THE EU AND GROENLAND

2.1. The scope of a sustainable development partnership

The Commission considers that it would be appropriate to base the future of the EU-Greenland relationship on a comprehensive partnership, where three dimensions are pertinent to sustainable development:

- Sustainable fisheries continue to be a matter of common interest. Like all future agreements with third countries, they should therefore be placed in the context of a partnership for the development of responsible and sustainable fisheries, as described in the Commission's communications "Towards a world partnership for sustainable development". Moreover, like in all other fisheries agreements the level of financial compensation should reflect the real level of fishing possibilities, leaving the non-fisheries aspects to be dealt with by other instruments;
- sustainable growth and employment should be promoted on the basis of a development strategy closely co-ordinated with Danish-Greenland common policies and with the economic, social and cultural challenges facing the Greenland Inuit population;
- the effective participation of Greenland and the protection of important EU interests in the framework of an international arctic co-operation should be ensured

2.2. Options for a new legal framework

Article 188 of the EC Treaty, which grants the OCT status to Greenland, also specifies that the only exception to such status concerns fisheries. Therefore, if the Community decides to enter into other, that is non-fisheries sectoral or global agreements concerning Greenland, it would need to modify the EC Treaty itself.

Concerning financial support, the present OCT framework, as recently revised by the Overseas Association Decision (covering the period 2001-2011), does not allow for an allocation comparable with that presently granted through the fisheries protocol. Under the 9th EDF OCT decision provisions, Greenland would receive no more than about a tenth of what it receives under the current financial compensation.

The question whether a new agreement would complement or totally replace the OCT status of Greenland should also be addressed. Two distinct options might then be considered:

- According to the first option, “OCT plus”, the treaty amendment would complement the basic OCT provisions with a specific arrangement covering not only fisheries but any bilateral and arctic-related issues not yet covered under the OCT status and allowing for a more sound form of EC-budgetary financing than is the case at present.
- In the second option, “EU-Greenland partnership”, an ad-hoc agreement would have to be negotiated, taking over and building upon all the facilities granted by the OCT status and by the fisheries agreement.

The first option would not entirely remove the ambiguity from the Greenland status, but it might even worsen it and possibly put into question the balance of the entire OCT framework for the sake of a very specific situation. Also, the visibility of the EU-Greenland relationship must be enhanced. For these reasons, the Commission considers that, if Greenland and Denmark so request, the second option should be preferred.

2.3. Proposed political commitment

Considering the need to place the adjustment of the 4th fisheries protocol between the Community and Greenland in the context of a future-oriented and reliable comprehensive partnership, the Commission invites the Council of Ministers to express to the Greenland authorities and to the Danish government their political commitment to:

- base the future relationship of the Union with Greenland after 2006 on a “partnership for sustainable development”, which would follow on from the present fisheries agreement and OCT status, in the light of the CFSP’s priorities after the next enlargement;
- amend consequently the EC Treaty in due course.

Within the next financial framework of the European Union, orientate future financial commitments on their present level, while taking into account the specific needs and constraints of Greenland as well as financial contributions from other parties.

3. THE MID TERM REVIEW OF THE 4TH FISHERIES PROTOCOL

In the light of the present strategy for a long term relationship between the EU and Greenland, the Commission believes that the Greenland authorities should consider a significant modification of the 4th fisheries protocol from 2003 onwards.

3.1. Streamlining the 4th fisheries protocol

Considering that the annual financial compensation foreseen by the protocol until the end of 2006 should remain unchanged, the Commission will propose to the Greenland authorities:

- to agree on catch quotas that are in line with fishing possibilities estimated on the basis of scientific advice, even though this will accentuate the discrepancy between the value of fishing possibilities and the amount of the financial compensation;
- to amend the protocol in order to earmark some of the financial compensation for the structural reform of Greenland’s fisheries industry and to promote

responsible fishing in its waters. The measures envisaged to do this would be programmed, implemented monitored by Greenland, which would produce an annual statement of the cost and benefits of the measures financed.

3.2. Paving the way for a sustainable development partnership agreement

Both for the needs of the short and long term proposals outlined above, it would be necessary to support the transition to a more articulated form of co-operation, to be outlined in a country strategy paper.

During the transitional period, financial aid should continue to be provided along the lines of a budgetary support; thereafter, the most appropriate instrument will be used. As soon as possible and in any case 2005 at the latest, the specific needs and constraints of Greenland relating to human resources and institutional aspects should be assessed, with a view to ensuring that Community aid achieves the best possible efficiency and sound financial management, as it is normally done when the Community grants funds in this form.

Recalling the preamble of the Greenland Treaty which specifies that ” *(the agreements) should permit a close and lasting link between Greenland and the Community*”, considering also that seventeen years later, the Danish government has given a clear encouragement to an even closer link in the form of an EU-Greenland partnership, the Commission considers that the perspective of a “*sustainable development partnership between EU and Greenland*” is consistent both with the initial spirit of the Greenland Treaty and with current developments.