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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1245/2004

of 28 June 2004

on the conclusion of the Protocol modifying 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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) In accordance with Article 14 of 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], the two parties held negotiations with a view to determining the amendments to be made to the fourth Protocol [3] laying down the conditions relating to fishing provided for in that Agreement.

(2) As a result of these negotiations, a Protocol modifying 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, was initialled on 18 June 2003.

(3) The amendments to the fourth Protocol follow the guidelines set out in the Communication from the Commission of 23 December 2002 on an integrated framework for fisheries partnerships agreements with third countries.

(4) The Protocol modifies the fishing opportunities for Community fishermen in waters under the exclusive economic zone of Greenland for the period from 1 January 2004 to 31 December 2006.

(5) It is in the Community's interest to approve the Protocol modifying the fourth Protocol.

(6) In order to optimise the use of fishing opportunities, it is necessary for the Commission to consult with the Member States concerned on the possible transfer of the non-utilised fishing opportunities of one Member State, during a fishing campaign, to another Member State on request. Such a transfer, which is to be of a temporary nature, should not prejudice future allocations of fishing opportunities amongst the Member States and is without prejudice to the competences attributed to the Member States by Article 20(5) of Regulation (EC) No 2371/2002 [4],

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol modifying 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, (the modifying Protocol), is hereby approved on behalf of the Community.

The text of the modifying Protocol is attached to this Regulation.

Article 2

The Commission may conclude an administrative arrangement with the competent authority of Greenland in order to adapt periodically the rates of licence fees, in accordance with Article 11(5) of the fourth Protocol.

Article 3

1. When there is an under-utilisation of the fishing opportunities realised in the framework of the quota and licences allocated to a Member State in waters under the exclusive economic zone of Greenland, without prejudice to the competences attributed to the Member States by Article 20(5) of Regulation (EC) No 2371/2002, the Commission shall consult with Member States to prepare the optimal use of fishing opportunities and in particular the possible transfer by the Member State concerned of the non-utilised fishing opportunities to other Member States, who make a request for such a transfer.

[1] Opinion delivered on 1 April 2004 (not yet published in the Official Journal).
[2] OJ L 29, 1.2.1985, p. 9.
[3] OJ L 209, 2.8.2001, p. 2.
[4] OJ L 358, 31.12.2002, p. 59.