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EUROPEAN COMMISSION

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Proposal for a

COUNCIL DECISION

laying down rules for imports into the European Union from Greenland of fishery products, live bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products thereof

(Text with EEA relevance)

Presented by the Commission

EXPLANATORY MEMORANDUM

Greenland and the European Union intend to enter into a sanitary arrangement on fish, fishery products, bivalve molluscs, tunicates and echinoderms (live and not alive) for human consumption as well as by-products derived from these sources, f.x. fish meal or fish oil. The objective of such an arrangement would be that Greenland can trade these commodities with the Union on the basis of internal market rules, provided that Greenland transposes EU sanitary and, where appropriate, animal health rules on fishery products, live bivalve molluscs and by-products derived from these sources.

The legal relationship between the Union and Greenland rests on two pillars. As Greenland is one of the overseas countries and territories (OCT) within the meaning of Article 355(2) of the Treaty on the Functioning of the European Union (TFEU), the relationship is primarily governed by Articles 198 to 204 of the TFEU as implemented by the Overseas Association Decision (OAD)¹ and the Greenland OCT Decision 2006/526/EG². These rules mainly provide for European Union support to OCTs in order to promote their economic and social development and to establish close economic relations between them and the European Union as a whole. They also contain provisions on trade, in particular duty free access to the European Union of products originating in the OCTs. Otherwise, OCTs must - as they are not part of the single market - comply with the obligations imposed on third countries, *inter alia* in respect of health standards.

Pursuant to Article 204 of the TFEU, the provisions of Articles 198 to 203 apply to Greenland, subject to the specific provisions set out in the Protocol on special arrangements for Greenland annexed to the Treaty.

The appropriate legal form for the planned sanitary and animal health arrangement between the Union and Greenland relating to the import of these products is a Council Decision based on Article 203 of the TFEU.

A decision based on Article 203 is an instrument of European Union law creating obligations between the Union and its Member States. The Danish Veterinary and Food Administration (DVFA), through its Regional Veterinary and Food Control Authority in Greenland, the 'Fodevareregion Nord', is acting as the competent authority in Greenland in this field, and is responsible for the effective implementation of the relevant EU sanitary and animal health legislation for the products concerned. The DVFA has provided official assurances that Greenland does comply with the rules of the relevant EU provisions, including import controls.

The Council Decision is accompanied by a political statement expressed through a joint declaration by the European Union on the one hand, and the Government of Greenland and the Government of Denmark on the other, to further strengthen the relationship and

¹ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (OJ L 314, 30.11.2001, p. 1).

² Council Decision 2006/526/EC of 17 July 2006 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other (OJ L 208, 29.7.2006, p. 28).

cooperation between the EU and Greenland, based on broadly shared interests, to the mutual benefit of trade and to endow their mutual relations with a long term perspective.

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(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 203 thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Parliament³,

After transmission of the proposal to the national Parliaments,

Acting in accordance with a special legislative procedure,

Whereas

- (1) Greenland is included in the list of overseas countries and territories set out in Annex II to the Treaty. In accordance with Article 198 of the Treaty, the purpose of association is to promote the economic and social development of the overseas countries and territories and to establish close economic relations between them and the Union as a whole.
- (2) Denmark and Greenland have requested that trade between the Union and Greenland in fishery products, bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products derived from those sources that are originating in Greenland according to the provisions of Annex III to Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community⁴ be permitted in accordance with the rules on trade within the Union.
- (3) It is appropriate that such trade be conducted in compliance with Union rules on animal health and food safety laid down in the legislation of the Union, in addition to the rules on the common organisation of the market in fishery products.
- (4) Accordingly, Denmark and Greenland should undertake that consignments of products dispatched to the European Union from Greenland are in accordance with the

³ OJ C [...], [...], p. [...].

⁴ OJ L 314, 30.11.2001, p. 1.

applicable Union rules concerning animal health, food safety and the common organisation of the market in fishery products. Eligible feed and food business operators should be registered and listed in accordance with Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules⁵.

- (5) The competent authority in Greenland has provided official assurances to the Commission on the enforcement of compliance with the Union rules and animal health requirements for the products concerned. Those assurances cover, in particular, the applicable provisions laid down in Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption⁶, Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin⁷ and Council Directive 2006/88/EC of 24 October 2006 on animal health requirements for aquaculture animals and products thereof, and on the prevention and control of certain diseases in aquatic animals⁸, and include a commitment to maintain compliance with the rules on trade within the Union.
- (6) Council Directive 96/23/EC of 29 April 1996 on measures to monitor certain substances and residues thereof in live animals and animal products⁹ requires the establishment of national monitoring plans for aquaculture animals. Accordingly, those provisions should also apply to Greenland.
- (7) To permit the importation into the European Union from Greenland of products in accordance with the rules laid down in Union legislation on trade within the Union, Denmark and Greenland should undertake to transpose and implement the relevant provisions in Greenland, before the date of adoption of this Decision.

Denmark and Greenland should undertake to ensure that imports into Greenland from third countries of the products concerned comply with Union rules on animal health and food safety. Veterinary checks at border inspection posts in Greenland should be carried out in accordance with Council Directive 97/78/EC of 18 December 1997 laying down the principles governing the organisation of veterinary checks on products entering the Community from third countries¹⁰. Veterinary checks at border inspection posts are carried out in close cooperation with customs officials. To simplify this task it is appropriate to provide the competent authorities with references to the Combined Nomenclature (CN) specified in Annex I to Commission Decision 2007/275/EC of 17 April 2007 concerning lists of animals and products to be subject to controls at border inspection posts under Council Directives 91/496/EEC and 97/78/EC¹¹.

⁵ OJ L 165, 30.4.2004, p. 1.

⁶ OJ L 273, 10.10.2002, p. 1.

⁷ OJ L 139, 30.4.2004, p. 55.

⁸ OJ L 328, 24.11.2006, p. 14.

⁹ OJ L 125, 23.5.1996, p. 10.

¹⁰ OJ L 24, 30.1.1998, p. 9.

¹¹ OJ L 116, 4.5.2007, p. 9.

- (8) Council Directive 90/425/EEC¹² provides for the introduction of a computerised system linking veterinary authorities with a view, in particular, to facilitate the rapid exchange of information relating to animal health and welfare between the competent authorities (TRACES). Commission Decision 2004/292/EC of 30 March 2004 on the introduction of the TRACES system¹³ provides that the Member States are to use TRACES from 1 April 2004. TRACES is essential for the effective monitoring of trade in animals and products of animal origin and accordingly it should be used for the transmission of data on movements and trade in the products in Greenland.
- (9) Outbreaks of animal diseases listed in Council Directive 82/894/EEC of 21 December 1982 on the notification of animal diseases within the Community¹⁴, are to be reported to the Commission via the Animal Disease Notification System (ADNS) in accordance with Commission Decision 2005/176/EC of 1 March 2005 laying down the codified form and the codes for the notification of animal diseases pursuant to Directive 82/894/EEC¹⁵. For the products concerned, those provisions should also apply to Greenland.
- (10) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety¹⁶ establishes a rapid alert system for the notification of a direct or indirect risk to human health deriving from food or feed. For the products concerned, these provisions should also apply to Greenland.
- (11) Before Greenland can carry out veterinary checks on products that are introduced into Greenland from third countries, a EU inspection should be carried out in Greenland to verify that the border inspection post(s) in Greenland is(are) in compliance with the requirements laid down in Directive 97/78/EC and Commission Regulation (EC) No 136/2004 of 22 January 2004 laying down procedures for veterinary checks at Community border inspection posts on products imported from third countries¹⁷ and Commission Decision 2001/812/EC of 21 November 2001 laying down the requirements for the approval of border inspection posts responsible for veterinary checks on products introduced into the Community from third countries¹⁸.
- (12) Following the positive outcome of the said inspection, the border inspection post(s) in Greenland should be listed in Commission Decision 2009/821/EC of 28 September 2009 drawing up a list of approved border inspection posts, laying down certain rules on the inspections carried out by Commission veterinary experts and laying down the veterinary units in TRACES¹⁹. In order to ensure effective control of the fishery products introduced in Greenland and the in the EU, it is appropriate that this Decision apply as from the moment at which the border inspection post(s) in Greenland is(are) listed in Decision 2009/821/EC.

¹² OJ L 224, 18.8.1990, p. 29.

¹³ OJ L 94, 31.3.2004, p. 63.

¹⁴ OJ L 378, 31.12.1982, p. 58.

¹⁵ OJ L 59, 5.3.2005, p. 40.

¹⁶ OJ L 31, 1.2.2002, p. 1.

¹⁷ OJ L 21, 28.1.2004, p. 11.

¹⁸ OJ L 306, 23.11.2001, p. 28.

¹⁹ OJ L 296, 12.11.2009, p. 1.

- (13) The measures necessary for the implementation of this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission²⁰,

HAS ADOPTED THIS DECISION:

Article 1
Subject matter and scope

This Decision applies to fishery products, bivalve molluscs, echinoderms, tunicates and marine gastropods and to by-products derived from those sources ('the products'), originating from Greenland or introduced into Greenland and then introduced into the European Union.

Article 2
Definitions

For the purposes of this Decision, the following definitions shall apply:

- (a) 'bivalve molluscs': molluscs as defined in point 2.1 of Annex I to Regulation (EC) No 853/2004;
- (b) 'fishery products': products as defined in point 3.1 of Annex I to Regulation (EC) No 853/2004;
- (c) 'by-products': animal by-products within the meaning of Article 2(1)(a) of Regulation (EC) No 1774/2002, derived from fishery products, bivalve molluscs, echinoderms, tunicates or marine gastropods;
- (d) 'products originating from Greenland': products as defined in accordance with the provisions of Annex III to Decision 2001/822/EC.

Article 3
General rules concerning trade between the European Union and Greenland in fishery products, live bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products thereof

- 1. Member States shall authorise imports into the European Union of the products coming from Greenland, in accordance with Union legislation on trade within the Union.
- 2. The importation of the products into the Union shall be subject to the following conditions:
 - (a) the effective transposition and implementation in Greenland of the applicable rules laid down in Union legislation concerning animal health, food safety and the common organisation of the market in fishery products, relating to the products ;

²⁰ OJ L 184, 17.7.1999, p. 23.

- (b) the drawing up and keeping up to date by the competent authority in Denmark and Greenland of a list of feed and food business operators which have been registered, in accordance with Article 31 of Regulation (EC) No 882/2004;
- (c) the conformity of consignments of products dispatched to the European Union from Greenland with the applicable rules laid in Union legislation concerning animal health, food safety and the common organisation of the market in fishery products;
- (d) the correct application of the rules laid down in Union legislation concerning animal health and food safety and the common organisation of the market in fishery products, to introduction of the products into Greenland.

Article 4

Monitoring plans for aquaculture animals

Denmark and Greenland shall submit for approval by the Commission monitoring plans for the detection of the presence of residues and substances in aquaculture animals in Greenland, in accordance with Directive 96/23/EC.

Article 5

Checks on products imported into Greenland from third countries

1. Veterinary checks shall be carried out on consignments of the products introduced into Greenland from third countries in accordance with the rules laid down in Directive 97/78/EC.

To facilitate those veterinary checks, the Commission will provide to the competent authorities of Denmark and Greenland references of the products to the Combined Nomenclature Codes listed in Annex I to Commission Decision 2007/275/EC.

2. Proposals for border inspection posts in Greenland shall be submitted to the Commission for approval in accordance with Article 6(2) of Directive 97/78/EC.

The list of border inspection posts approved for Greenland shall be included in the list of border inspection posts in the Member States, approved in accordance with Directives 91/496/EEC and 97/78/EC.

Article 6

Information system

1. Data on movements and trade in the products in Greenland shall be transmitted in the Danish language via the integrated computerised veterinary system (TRACES) in accordance with Decision 2004/292/EC.
2. The notification of aquatic diseases concerning the products in Greenland shall be transmitted via the animal disease notification system (ADNS), in accordance with Directive 82/894/EEC and Decision 2005/176/EC.

3. The notification of direct or indirect risks to human health deriving from the products in Greenland shall be transmitted via the rapid alert system for feed and food (RASFF) established by Regulation (EC) No 178/2002.

Article 7
Identification mark

Consignments of the products dispatched to the European Union from Greenland shall be marked with the identification mark for Greenland, 'GL', in accordance with the rules set out in Section I(B) of Annex II to Regulation (EC) No 853/2004.

Article 8
Confirmation of compliance with the conditions laid down in this Decision

Denmark and Greenland shall provide, before the date of application of this Decision referred to in Article 11, written confirmation that the necessary measures for the application of this Decision have been taken.

Article 9
Implementing measures

The measures necessary for the implementation of this Decision shall be adopted in accordance with the procedure referred to in Article 10.

Article 10
Committee

1. The Commission shall be assisted by the Standing Committee on the Food Chain and Animal Health established by Article 58 of Regulation (EC) No 178/2002.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

Article 11
Entry into force and applicability

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

It shall apply from the date of listing in Decision 2009/821/EC of the first border inspection post in Greenland.

Done at Brussels,

*For the Council
The President*