

AGREEMENT

between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part

THE EUROPEAN COMMUNITY,

of the one part, and

THE GOVERNMENT OF DENMARK AND THE HOME GOVERNMENT OF THE FAROE ISLANDS,

of the other part,

RECALLING the status of the Faeroes as a self-governing integral part of one of the Member States of the Community;

RECALLING the resolution of the Council of 4 February 1974 on the problems of the Faeroes;

CONSIDERING the vital importance for the Faeroes of fisheries, which constitute their essential economic activity, fish and fishery products being their main export articles;

CONSIDERING the importance of the fisheries relationship laid down in the Agreement on fisheries between the Contracting Parties, who confirm that the trade aspects of this Agreement should not affect the functioning of the Fisheries Agreement and that, consequently, the volume of the mutual fisheries possibilities under that Agreement should continue to be maintained at a satisfactory level;

DESIRING to consolidate and to extend the economic relations existing between the Community and the Faeroes and to ensure, with due regard for fair conditions of competition, the harmonious development of their commerce for the purpose of contributing to the work of constructing Europe;

RESOLVED progressively to eliminate the obstacles to substantially all their trade, in accordance with the provisions of the General Agreement on Tariffs and Trade (GATT) 1994 concerning the establishment of free trade areas;

DECLARING their readiness to examine, in the light of any relevant factor, and in particular of developments in the Community, the possibility of developing and deepening their relations where it would appear to be useful in the interests of their economies to extend them to fields not covered by this Agreement;

CONSIDERING that, to this end, an Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part (hereafter referred to as the 'initial Agreement') was signed on 2 December 1991;

CONSIDERING that an Agreement in the form of an Exchange of Letters between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, amending Tables I and II of the Annex to Protocol 1 of the initial Agreement (hereafter referred to as the 'Agreement in the form of an Exchange of Letters') was signed on 8 March 1995;

CONSIDERING that, pursuant to the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the European Union on 1 January 1995, the arrangements applicable to trade in fish and fishery products between the Faeroes and the Community should be adjusted in order to maintain trade flows between the Faeroes, on the one hand, and the new Member States, on the other;

CONSIDERING that, as a result of the adoption by the Community of a common definition of origin for petroleum products, it is necessary to make adjustments to the provisions affecting these products;

CONSIDERING that, in order to take account of certain developments in trade between the Community and the Member States of EFTA, it is necessary to make adjustments to the provisions concerning the definition of the concept of 'originating products' and methods of administrative cooperation;

CONSIDERING that, in order to take account of the specific production of fish feed on the Faeroes, it is necessary to make adjustments to the provisions applicable to imports of certain agricultural products;

CONSIDERING that, in order to help ensure its correct functioning, a Protocol on mutual administrative assistance in customs matters should be incorporated into this Agreement;

CONSIDERING that, in order to conform with certain modifications to the nomenclature of the customs tariffs of the Contracting Parties affecting products referred to in the initial Agreement, it is necessary to update the tariff nomenclature of these products;

CONSIDERING that, in order to provide for more flexibility, it is appropriate to empower the Joint Committee to decide on amendments to the provisions of the Protocols to this Agreement;

CONSIDERING that, for the sake of clarity, the initial Agreement and the Agreement in the form of an Exchange of Letters should be replaced by a composite new text in the form of this Agreement;

TAKING INTO ACCOUNT that the bilateral trade Agreements between Finland and Sweden and the Faeroes cease to be in force on the entry into force of this Agreement;

HAVE DECIDED, in pursuit of these objectives and considering that no provisions of this Agreement may be interpreted as exempting the Contracting Parties from the obligations which are incumbent on them under other international agreements,

TO CONCLUDE THIS AGREEMENT:

Article 1

The aim of this Agreement is:

- (a) to promote through the expansion of reciprocal trade the harmonious development of economic relations between the Community and the Faeroes and thus to foster in the Community and in the Faeroes the advance of economic activity, the improvement of living and employment conditions, and increased productivity and financial stability,
- (b) to provide fair conditions of competition for trade between the Contracting Parties,
- (c) to contribute in this way, by the removal of barriers to trade, to the harmonious development and expansion of world trade.

Article 2

This Agreement shall apply to products originating in the Community or the Faeroes:

- (i) which fall within Chapters 25 to 97 of the Harmonized System, other than those listed in Annex II to the Treaty establishing the European Community, and other than those listed in Annex I to this Agreement;
- (ii) which are specified in Protocols 1, 2 and 4 to this Agreement, with due regard to the arrangements provided for in those Protocols.

Article 3

No new customs duty on imports shall be introduced in trade between the Community and the Faeroes.

Article 4

1. The Community shall abolish customs duties on imports from the Faeroes.
2. The Faeroes shall abolish customs duties on imports from the Community: to this end Annex II sets out the provisions contained in the customs and fiscal legislation of the Faeroes.

Article 5

The provisions concerning the abolition of customs duties on imports shall apply also to import duties of a fiscal nature.

The Faeroes may replace an import duty of a fiscal nature or the fiscal element of an import duty by an internal tax.

Article 6

No new charge having an effect equivalent to a customs duty shall be introduced in trade between the Community and the Faeroes.

Charges having an effect equivalent to customs duties on imports in trade between the Community and the Faeroes shall be abolished.

Article 7

No customs duty on exports or charge having equivalent effect shall be introduced in trade between the Community and the Faeroes.

Customs duties on exports and charges having equivalent effect shall be abolished.

Article 8

Protocol 1 lays down the tariff treatment and arrangements applicable to certain fish and fishery products released for free circulation in the Community or imported into the Faeroes.

Article 9

Protocol 2 lays down the tariff treatment and arrangements applicable to certain products obtained by processing agricultural products.

Article 10

1. In the event of specific rules being established as a result of the implementation of its agricultural policy or of any alteration of the current rules, the Contracting Party in question may adapt the arrangements resulting from this Agreement in respect of the products which are the subject of those rules or alterations.

2. In such cases the Contracting Party in question shall take due account of the interests of the other Contracting Party. To this end the Contracting Parties may consult each other within the Joint Committee established by Article 31.

Article 11

Protocol 3 lays down the definition of the concept of 'originating products' and methods of administrative cooperation.

Article 12

A Contracting Party which is considering the reduction of the effective level of its duties or charges having equivalent effect applicable to third countries benefiting from most-favoured-nation treatment, or which is considering the suspension of their application, shall, as far as may be practicable, notify the Joint Committee not less than 30 days before such reduction or suspension comes into effect. It shall take note of any representations by the other Contracting Party regarding any distortions which might result therefrom.

Article 13

1. No new quantitative restriction on imports or measures having equivalent effect shall be introduced in trade between the Community and the Faeroes.

2. The Contracting Parties shall abolish quantitative restrictions on imports and any measures having an effect equivalent to quantitative restrictions on imports.

Article 14

1. The Community reserves the right to modify the arrangements applicable to the petroleum products falling within headings Nos 2710, 2711, ex 2712 (excluding ozokerite, lignite wax and peat wax) and 2713 of the combined nomenclature on adoption of decisions under the common commercial policy for petroleum products or on establishment of a common energy policy.

In this event, the Community shall take due account of the interests of the Faeroes; to this end it shall inform the Joint Committee, which shall meet under the conditions set out in Article 33 (2).

2. The Faeroes reserves the right to take similar action should it be faced with like situations.

3. Subject to paragraphs 1 and 2, this Agreement shall not prejudice the non-tariff rules applied to imports of petroleum products.

Article 15

1. The Contracting Parties declare their readiness to foster, so far as their agricultural policies allow, the harmonious development of trade in agricultural products to which this Agreement does not apply.

2. The Contracting Parties shall apply their rules in veterinary, health and plant health matters in a non-discriminatory fashion and shall not introduce any new measures that have the effect of unduly obstructing trade.

3. The Contracting Parties shall examine, under the conditions set out in Article 35, any difficulties that might arise in their trade in agricultural products and shall endeavour to seek appropriate solutions.

Article 16

The Home Government of the Faroe Islands shall take the necessary control measures to ensure the correct application of the reference price fixed or to be fixed by the Community, referred to in Article 2 of Protocol 1.

The Contracting Parties shall ensure the correct application of the definition of the concept of 'originating products' and methods of administrative cooperation, laid down in Protocol 3.

Article 17

Protocol 4 lays down the special provisions applicable to imports of certain agricultural products other than those listed in Protocol 1.

Article 18

Protocol 5 lays down the provisions on mutual assistance between administrative authorities in customs matters.

Article 19

The Contracting Parties reaffirm their commitment to grant each other the most-favoured-nation treatment in accordance with the GATT 1994.

This Agreement shall not preclude the maintenance or establishment of customs unions, free trade areas or arrangements for frontier trade, except in so far as they alter the trade arrangements provided for in this Agreement, in particular the provisions concerning rules of origin.

Article 20

The Contracting Parties shall refrain from any measure or practice of an internal fiscal nature which, whether directly or indirectly, discriminates between the products of one Contracting Party and like products originating in the territory of the other Contracting Party.

Products exported to the territory of one of the Contracting Parties may not benefit from repayment of internal taxation in excess of the amount of direct or indirect taxation imposed on them.

Article 21

Payments relating to trade in goods and the transfer of such payments to the Member State of the Community in which the creditor is resident or to the Faeroes shall be free from any restrictions.

Article 22

This Agreement shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, law and order or public security, the protection of life and health of humans, animals or plants, the protection of national treasures of artistic, historic or archaeological value, the protection of industrial and commercial property, or rules relating to gold or silver.

Such prohibitions or restrictions must not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between the Contracting Parties.

Article 23

Nothing in this Agreement shall prevent a Contracting Party from taking any measures:

- (a) which it considers necessary to prevent the disclosure of information contrary to its essential security interests;
- (b) which relate to trade in arms, munitions or war materials or to research, development or production indispensable for defence purposes, provided that such measures do not impair the conditions of competition in respect of products not intended for specifically military purposes;
- (c) which it considers essential to its own security in time of war or serious international tension.

Article 24

1. The Contracting Parties shall refrain from any measure likely to jeopardize the fulfilment of the objectives of this Agreement.

2. They shall take any general or specific measures required to fulfil their obligations under this Agreement.

If either Contracting Party considers that the other Contracting Party has failed to fulfil an obligation under this Agreement, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

Article 25

1. The following are incompatible with the proper functioning of this Agreement in so far as they may affect trade between the Community and the Faeroes:

- (i) all agreements between undertakings, decisions by associations of undertakings and concerted practices between undertakings which have as their object or effect the prevention, restriction or distortion of competition as regards the production of or trade in goods;
- (ii) abuse by one or more undertakings of a dominant position in the territories of the Contracting Parties as a whole or in a substantial part thereof;
- (iii) any public aid which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods.

2. Should a Contracting Party consider that a given practice is incompatible with this Article, it may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

Article 26

Where an increase in imports of a given product is or is likely to be seriously detrimental to any production activity carried on in the territory of one of the Contracting Parties and where this increase is due to:

- (i) the partial or total reduction in the importing Contracting Party, as provided for in this Agreement, of customs duties and charges having equivalent effect levied on the product in question; and
- (ii) the fact that the duties or charges having equivalent effect levied by the exporting Contracting Party on imports of raw materials or intermediate products used in the manufacture of the product in question are significantly lower than the corresponding duties or charges levied by the importing Contracting Party;

the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

Article 27

If one of the Contracting Parties finds that dumping is taking place in trade with the other Contracting Party, it may take appropriate measures against this practice in accordance with the Agreement on Implementation of Article VI of the GATT 1994, under the conditions and in accordance with the procedures laid down in Article 29.

Article 28

If serious disturbances arise in any sector of the economy or if difficulties arise which could bring about serious deterioration in the economic situation of a region, the Contracting Party concerned may take appropriate measures under the conditions and in accordance with the procedures laid down in Article 29.

Article 29

1. In the event of a Contracting Party subjecting imports of products liable to give rise to the difficulties referred to in Articles 26 and 28 to an administrative procedure, the purpose of which is to provide rapid information on the trend of trade flows, it shall inform the other Contracting Party.

2. In the cases specified in Articles 24 to 28, before taking the measures provided for therein or, in cases to which paragraph 3 (d) of this Article applies, as soon as

possible, the Contracting Party in question shall supply the Joint Committee with all relevant information required for a thorough examination of the situation with a view to seeking a solution acceptable to the Contracting Parties.

In the selection of measures, priority must be given to those which least disturb the functioning of this Agreement.

The safeguard measures shall be notified immediately to the Joint Committee and shall be the subject of periodical consultations within the Committee, particularly with a view to their abolition as soon as circumstances permit.

3. For the implementation of paragraph 2, the following provisions shall apply:

- (a) as regards Article 25, either Contracting Party may refer the matter to the Joint Committee if it considers that a given practice is incompatible with the proper functioning of this Agreement within the meaning of Article 25 (1).

The Contracting Parties shall provide the Joint Committee with all relevant information and shall give it the assistance it requires in order to examine the case and, where appropriate, to eliminate the practice objected to.

If the Contracting Party in question fails to put an end to the practice objected to within the period fixed by the Joint Committee, or in the absence of agreement in the Joint Committee within three months of the matter being referred to it, the Contracting Party concerned may adopt any safeguard measures it considers necessary to deal with the serious difficulties resulting from the practices in question; in particular it may withdraw tariff concessions;

- (b) as regards Article 26, the difficulties arising from the situation referred to in that Article shall be referred for examination to the Joint Committee, which may take any decision needed to put an end to such difficulties.

If the Joint Committee or the exporting Contracting Party has not taken a decision putting an end to the difficulties within 30 days of the matter being referred, the importing Contracting Party is authorized to levy a compensatory charge on the product imported.

The compensatory charge shall be calculated according to the incidence on the value of the goods in question of the tariff disparities in respect of the raw materials or intermediate products incorporated therein;

- (c) as regards Article 27, consultation in the Joint Committee shall take place before the Contracting Party concerned takes the appropriate measures;

(d) where exceptional circumstances requiring immediate action make prior examination impossible, the Contracting Party concerned may, in the situations specified in Articles 26, 27 and 28 and also in the case of export aids having a direct and immediate incidence on trade, apply forthwith the precautionary measures strictly necessary to remedy the situation.

Article 30

Where one or more Member States of the Community or the Faeroes is in difficulties or is seriously threatened with difficulties as regards its balance of payments, the Contracting Party concerned may take the necessary safeguard measures. It shall inform the other Contracting Party forthwith.

Article 31

1. A Joint Committee is hereby established which shall be responsible for the administration of this Agreement and shall ensure its proper implementation. For this purpose, it shall make recommendations and take decisions in the cases provided for in this Agreement. These decisions shall be put into effect by the Contracting Parties in accordance with their own rules.

2. For the purpose of the proper implementation of this Agreement the Contracting Parties shall exchange information and, at the request of either Party, shall hold consultations within the Joint Committee.

3. The Joint Committee shall adopt its own rules of procedure.

Article 32

1. The Joint Committee shall consist of representatives of the Contracting Parties.

2. The Joint Committee shall act by mutual agreement.

Article 33

1. Each Contracting Party shall preside in turn over the Joint Committee, in accordance with the arrangements to be laid down in its rules of procedure.

2. The Chairman shall convene meetings of the Joint Committee at least once a year in order to review the general functioning of this Agreement.

The Joint Committee shall, in addition, meet whenever special circumstances so require, at the request of either Contracting Party, in accordance with the conditions to be laid down in its rules of procedure.

3. The Joint Committee may decide to set up any working party that can assist it in carrying out its duties.

Article 34

1. The Joint Committee may amend the provisions of the Protocols to this Agreement.

2. In the event of modifications of the nomenclature of the customs tariffs of the Contracting Parties affecting products referred to in this Agreement, the Joint Committee may adapt the tariff nomenclature of these products to conform with such modifications.

Article 35

1. Where a Contracting Party considers that it would be useful in the common interest of both Contracting Parties to develop the relations established by this Agreement by extending them to fields not covered thereby, it shall submit a reasoned request to the other Contracting Party.

The Contracting Parties may instruct the Joint Committee to examine this request and, where appropriate, to make recommendations to them, particularly with a view to opening negotiations.

2. The agreements resulting from the negotiations referred to in paragraph 1 will be subject to ratification or approval by the Contracting Parties in accordance with their own procedures.

Article 36

At the request of the Faeroes, the Community will consider

- improving the access possibilities for specific products,
- extending its tariff concessions for Faeroese fishery products to include new fish species caught by Faeroese fishing vessels based and operating in the North Atlantic, or to include fishery products pertaining thereto not currently produced by the Faeroese fishing industry. These new fish species or fishery products could be imported free of duty into the Community, subject to the necessary quantitative limitations should the new fish species or fishery products be of a sensitive nature in the Community.

Article 37

The Annexes and Protocols to this Agreement shall form an integral part thereof.

Article 38

Either Contracting Party may denounce this Agreement by notifying the other Contracting Party. This Agreement shall cease to be in force 12 months after the date of such notification.

Article 39

This Agreement shall apply, on the one hand, to the territories to which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Faeroes.

Article 40

1. This Agreement is drawn up in duplicate in the Danish, Dutch, English, Finnish, French, German, Greek, Italian, Portuguese, Spanish, Swedish and Faeroese languages, each of these texts being equally authentic.

2. It will be approved by the Contracting Parties in accordance with their own procedures.

3. It shall enter into force on 1 January 1997, provided that the Contracting Parties have notified each other before that date that the procedures necessary to this end have been completed. After this date, this Agreement shall enter into force on the first day of the third month following such notification.

4. The provisions of the following Agreements shall cease to be in force on the entry into force of this Agreement:

- the Agreement between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, signed on 2 December 1991,
- the Agreement in the form of an exchange of letters between the European Community, of the one part, and the Government of Denmark and the Home Government of the Faroe Islands, of the other part, amending Tables I and II of the Annex to Protocol 1 of the abovementioned Agreement, signed on 8 March 1995,
- the bilateral trade agreements between Finland and Sweden and the Faeroes.

Hecho en Bruselas, el seis de diciembre de mil novecientos noventa y seis.

Udfærdiget i Bruxelles den sjette december nitten hundrede og seks og halvfems.

Geschehen zu Brüssel am sechsten Dezember neunzehnhundertsechsunneunzig.

Έγινε στις Βρυξέλλες, στις έξι Δεκεμβρίου χίλια εννιακόσια ενενήντα έξι.

Done at Brussels on the sixth day of December in the year one thousand nine hundred and ninety-six.

Fait à Bruxelles, le six décembre mil neuf cent quatre-vingt-seize.

Fatto a Bruxelles, addì sei dicembre millenovecentonovantasei.

Gedaan te Brussel, de zesde december negentienhonderd zesennegentig.

Feito em Bruxelas, em seis de Dezembro de mil novecentos e noventa a seis.

Tehty Brysselissä kuudentena päivänä joulukuuta vuonna tuhatyhdeksänsataayhdeksänkymmentäkuusi.

Som skedde i Bryssel den sjätte december nittonhundra nittiosex.

Gjörður í Brússel, sætta desember níttjanhundrað og nítiseks.

Por la Comunidad Europea

For Det Europæiske Fællesskab

Für die Europäische Gemeinschaft

Για την Ευρωπαϊκή Κοινότητα

For the European Community

Pour la Communauté européenne

Per la Comunità europea

Voor de Europese Gemeenschap

Pela Comunidade Europeia

Euroopan yhteisön puolesta

På Europeiska gemenskapens vägnar

Fyri Europeiska Felagsskapin

Handwritten signature in cursive script, appearing to read "Leon B. van der ...".

Por el Gobierno de Dinamarca y el Gobierno local de las Islas Feroe

For Danmarks regering og Færøernes landsstyre

Für die Regierung von Dänemark und die Landesregierung der Färöer

Για την κυβέρνηση της Δανίας και την τοπική κυβέρνηση των Νήσων Φερόε

For the Government of Denmark and the Home Government of the Faroe Islands

Pour le gouvernement du Danemark et le gouvernement local des îles Féroé

Per il governo della Danimarca e per il governo locale delle isole Færøer

Voor de Regering van Denemarken en de Landsregering van de Faeröer

Pelo Governo da Dinamarca e pelo Governo Regional das Ilhas Faroé

Tanskan hallituksen ja Färsaarten paikallishallituksen puolesta

På Danmarks regerings och Färöarnas landsstyres vägnar

Fyri ríkisstjórn Danmarkar og Føroya landsstýri



Edmund Færevær
Nils Høllund Petersen