COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.4.2005
COM(2005) 145 final

2005/0055 (CNS)

Proposal for a

COUNCIL DECISION

concerning the signing of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 44/2001 on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matters

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 44/2001 on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matters

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Political and legal background

Pursuant to Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on the European Union and the Treaty establishing the European Community, Denmark does not participate in Title IV of the Treaty. As a consequence, Community instruments adopted in the field of, among others, judicial cooperation in civil matters are not binding upon or applicable in Denmark.

One of these Community instruments is Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. This Regulation has replaced the Brussels Convention of 1968 on the same matter, to which Denmark is a party. The Regulation contains revised and modernized rules of the Brussels Convention and applies to all Member States except Denmark; the United Kingdom and Ireland having exercised their right to opt in.

The non-application of Regulation 44/2001 in Denmark results in a most unsatisfactory legal situation: Not only does Denmark continue to apply the old rules of the Brussels Convention, but also all other Member States have to apply these rules, i.e. a set of rules different from the one they use in their mutual relations, when it comes to the recognition and enforcement of Danish decisions. This constitutes a step backwards given that prior to the entry into force of Regulation 44/2001 the rules of the Brussels Convention applied uniformly in all Member States. The current situation therefore jeopardizes the uniformity and legal certainty of the Community rules.

Denmark expressed at several occasions its interest to participate in the new regime. After in depth discussions, the Commission accepted to negotiate parallel agreements with Denmark, provided that the following conditions were fulfilled: Such a solution would have to be of an exceptional nature and apply for a transitional period only, the participation of Denmark in the Community regime would have to be fully in the interests of the Community and its citizens and the requirements imposed on Denmark would have to be identical to those imposed on all Member States, so as to ensure that rules with the same content are applied in Denmark and in the other Member States.

In view of the situation outlined above, the Commission considered it to be in the Community interest to extend to Denmark the provisions of Regulations 44/2001 and Council Regulation (EC) No 1348/2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters, which is closely linked to Regulation 44/2001. The agreement extending the provisions of Regulation 1348/2000 to Denmark is the subject matter of a separate Council decision.

The Commission presented on 28th June 2002 a recommendation for a Council Decision authorizing the Commission to open negotiations for the conclusion of two agreements between the European Community and Denmark, extending both Regulation 44/2001 and Regulation 1348/2000 to Denmark.

The Council decided on 8 May 2003 to exceptionally authorize the Commission to negotiate an agreement with Denmark with the view to make the provisions of Regulation 44/2001 as well as the provisions of Regulation 1348/2000 applicable to Denmark under international law.

2. Results of the Negotiations

The Commission negotiated the parallel agreement extending to Denmark the provisions of Regulation 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters in accordance with the Council's negotiating directives, carefully ensuring that rights and obligations of Denmark under this agreement correspond to rights and obligations of the other Member States.

As a result, the parallel agreement contains, in particular, the following provisions:

- appropriate rules on the role of the Court of Justice to ensure the uniform interpretation of the instrument applied by the parallel agreement between Denmark and the other Member States;

- a mechanism to enable Denmark to accept future amendments by the Council to the basic instrument and the future implementing measures to be adopted under Article 202 of the EC Treaty;

- a clause providing that the agreement is considered terminated if Denmark refuses to accept such future amendments and implementing measures;

- rules specifying Denmark's obligations in negotiations with third countries for agreements concerning matters covered by the parallel agreement;

- the possibility of denouncing the parallel agreement by giving notice to the other Contracting Party.

3. Conclusions

In view of the positive outcome of the negotiations, the Commission recommends that the Council adopt the following two decisions:

Firstly, a decision concerning the signing of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Regulation 44/2001 on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matters

Secondly, a decision concerning the conclusion by the European Community of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Regulation 44/2001 on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matter.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c) and in conjunction with the first subparagraph of Article 300(2) thereof,

Having regard to the proposal from the Commission[1],

Whereas:

(1) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not bound by the provisions of Regulation (EC) No 44/2001[2], nor subject to their application.

(2) By Decision of 8 May 2003, the Council authorised the Commission to negotiate an agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of the above-mentioned Regulation.

(3) The Commission has negotiated such agreement, on behalf of the Community, with the Kingdom of Denmark.

(4) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the TEU and the TEC, are taking part in the adoption and application of this Decision.

(5) In accordance with Articles 1 and 2 of the above-mentioned Protocol on the position of Denmark, Denmark is not taking part in the adoption and application of this Decision.

(6) The Agreement, initialled at Brussels on 17 January 2005, should be signed.

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1 OJ C , , p. .

2 OJ L 12, 16.1.2001,p1

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to a possible conclusion, the President of the Council is hereby authorised to designate the person(s) empowered to sign, on behalf of the European Community, the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

Done at Brussels,

For the Council
The President

2005/0055 (CNS)

Proposal for a

COUNCIL DECISION

concerning the conclusion of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 44/2001 on jurisdiction and the recognitions and enforcement of judgments in civil and commercial matters

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 61(c), in conjunction with the first subparagraph of Article 300(2) and the first subparagraph of Article 300 (3) thereof,

Having regard to the proposal from the Commission[3],

Having regard to the opinion of the European Parliament[4],

Whereas:

(1) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark is not bound by the provisions of Regulation (EC) No 44/2001[5], nor subject to their application.

(2) The Commission has negotiated an agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of the above-mentioned Regulation.

(3) The Agreement was signed, on behalf of the European Community, on ……2005, subject to its possible conclusion at a later date, in accordance with Decision .../…/EC of the Council of […….].

(4) The United Kingdom and Ireland, in accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the TEU and the TEC, are taking part in the adoption and application of this Decision.

(5) In accordance with Articles 1 and 2 of the above-mentioned Protocol on the position of Denmark, Denmark is not taking part in the adoption and application of this Decision.

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3 OJ C , , p. .
4 OJ C , , p. .
5 OJ L12,16.1.2001,p.1

(6) This Agreement should be approved.

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to make the notification provided for in Article 12(2) of the Agreement.

Done at Brussels,

For the Council
The President

ANNEX

AGREEMENT

between the European Community and

the Kingdom of Denmark

on

jurisdiction and the recognition and enforcement

of judgments in civil and commercial matters

THE EUROPEAN COMMUNITY,

hereinafter referred to as "the Community", of the one part, and

THE KINGDOM OF DENMARK,

hereinafter referred to as "Denmark", of the other part,

1. DESIRING to unify the rules of conflict of jurisdiction in civil and commercial matters and to simplify the formalities with a view to rapid and simple recognition and enforcement of judgments within the Community,

2. WHEREAS the Member States on 27 September 1968, acting under Article 293, fourth indent, of the Treaty establishing the European Community, concluded the Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters, as amended by Conventions on the Accession of the New Member States to that Convention (the "Brussels Convention").[6] On 16 September 1988 Member States and EFTA States concluded the Lugano Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters[7], which is a parallel Convention to the 1968 Brussels Convention.

3. WHEREAS the main content of the Brussels Convention has been taken over in the Council Regulation No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters[8] ("the Brussels I Regulation"),

4. REFERRING to the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community ("the Protocol on the position of Denmark") pursuant to which the Brussels I Regulation shall not be binding upon or applicable in Denmark,

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6 OJ L 299, 31.12.1972, p. 32. OJ L 304, 30.10.1978, p. 1. OJ L 388, 31.12.1982, p. 1. OJ L 285, 3.10.1989, p. 1. OJ C 15, 15.1.1997, p. 1. For a consolidated text, see OJ C 27, 26.1.1998, p. 1.

7 OJ L 319, 25.11.1988, p. 9

8 OJ L 12 , 16.1.2001, p. 1

5. STRESSING that a solution to the unsatisfactory legal situation arising from differences in applicable rules on jurisdiction, recognition and enforcement of judgments within the Community must be found,

6. DESIRING that the provisions of the Brussels I Regulation, future amendments hereto and the implementing measures relating to it should under international law apply to the relations between the Community and Denmark being a Member State with a special position with respect to Title IV of the Treaty establishing the European Community,

7. STRESSING that continuity between the Brussels Convention and this Agreement should be ensured, and that transitional provisions as in the Brussels I Regulation should be applied to this agreement as well. The same need for continuity applies as regards the interpretation of the Brussels Convention by the Court of Justice of the European Communities and the 1971 Protocol[9] which should remain applicable also to cases already pending when this Agreement enters into force,

8. STRESSING that the Brussels Convention also continues to apply to the territories of the Member States which fall within the territorial scope of that Convention and which are excluded from this Agreement,

9. STRESSING the importance of proper co-ordination between the Community and Denmark with regard to the negotiation and conclusion of international agreements that may affect or alter the scope of the Brussels I Regulation,

10. STRESSING that Denmark should seek to join international agreements entered into by the Community where Danish participation in such agreements is relevant for the coherent application of the Brussels I Regulation and this Agreement,

11. STATING that the Court of Justice of the European Communities should have jurisdiction in order to secure the uniform application and interpretation of this Agreement including the provisions of the Brussels I Regulation and any implementing Community measures forming part of this Agreement,

12. REFERRING to the jurisdiction conferred to the Court of Justice of the European Communities pursuant to Article 68(1) of the Treaty establishing the European Community to give rulings on preliminary questions relating to the validity and interpretation of acts of the institutions of the Community based on Title IV of the Treaty, including the validity and interpretation of this Agreement, and to the circumstance that this provision shall not be binding upon or applicable in Denmark, as results from the Protocol on the position of Denmark,

13. CONSIDERING that the Court of Justice of the European Communities should have jurisdiction under the same conditions to give preliminary rulings on questions concerning the validity and interpretation of this Agreement which are raised by a Danish court or tribunal**,** and that Danish courts and tribunals should therefore request preliminary rulings under the same conditions as courts and tribunals of other

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[9] OJ L 204, 2.8.1975, p. 28, OJ L 304, 30.10.1978, p. 1, OJ L 388, 31.12.1982, p. 1, OJ L 285, 3.10.1989, p. 1, OJ C 15, 15.1.1997, p. 1. For a consolidated text see OJ C 27, 26.1.1998, p. 28.

Member States in respect of the interpretation of the Brussels I Regulation and its implementing measures,

14. REFERRING to the provision that, pursuant to Article 68(3) of the Treaty establishing the European Community, the Council of the European Union, the European Commission and the Member States may request the Court of Justice of the European Communities to give a ruling on the interpretation of acts of the institutions of the Community based on Title IV of the Treaty, including the interpretation of this Agreement, and the circumstance that this provision shall not be binding upon or applicable in Denmark, as results from the Protocol on the position of Denmark,

15. CONSIDERING that Denmark should, under the same conditions as other Member States in respect of the Brussels I Regulation and its implementing measures, be accorded the possibility to request the Court of Justice of the European Communities to give rulings on questions relating to the interpretation of this Agreement,

16. STRESSING that under Danish law the courts in Denmark should – when interpreting this Agreement including the provisions of the Brussels I Regulation and any implementing Community measures forming part of this Agreement – take due account of the rulings contained in the case law of the Court of Justice of the European Communities and of the courts of the Member States of the European Communities in respect of provisions of the Brussels Convention, the Brussels I Regulation and any implementing Community measures,

17. CONSIDERING that it should be possible to request the Court of Justice of the European Communities to rule on questions relating to compliance with obligations under this Agreement pursuant to the provisions of the Treaty establishing the European Community governing proceedings before the Court,

18. WHEREAS, by virtue of Article 300(7) of the Treaty establishing the European Community, this Agreement binds Member States; it is therefore appropriate that Denmark, in the case of non-compliance by a Member State, should be able to seize the Commission as guardian of the Treaty,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Aim

1. The aim of this Agreement is to apply the provisions of Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ("the Brussels I Regulation") and its implementing measures to the relations between the Community and Denmark, in accordance with Article 2(1).

2. It is the objective of the Contracting Parties to arrive at a uniform application and interpretation of the provisions of the Brussels I Regulation and its implementing measures in all Member States.

3. The provisions of Articles 3(1), 4(1) and 5(1) of this Agreement result from the Protocol on the position of Denmark.

ARTICLE 2

Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters

1. The provisions of the Brussels I Regulation, which is annexed to this Agreement and forms part thereof, together with its implementing measures adopted pursuant to Article 74(2) of the Regulation and – in respect of implementing measures adopted after the entry into force of this Agreement – implemented by Denmark as referred to in Article 4 of this Agreement, and the measures adopted pursuant to Article 74(1) of the Regulation, shall under international law apply to the relations between the Community and Denmark.

2. However, for the purposes of this Agreement, the application of the provisions of that Regulation shall be modified as follows:

(a) Article 1(3) shall not apply.

(b) Article 50 shall be supplemented by the following paragraph (as paragraph 2): ”2. However, an applicant who requests the enforcement of a decision given by an administrative authority in Denmark in respect of a maintenance order may, in the Member State addressed, claim the benefits referred to in the first paragraph if he presents a statement from the Danish Ministry of Justice to the effect that he fulfils the financial requirements to qualify for the grant of complete or partial legal aid or exemption from costs or expenses.”

(c) Article 62 shall be supplemented by the following paragraph (as paragraph 2): ”2. In matters relating to maintenance, the expression 'court' includes the Danish administrative authorities.”

(d) Article 64 shall apply to seagoing ships registered in Denmark as well as in Greece and Portugal.

(e) The date of entry into force of this Agreement shall apply instead of the date of entry into force of the Regulation as referred to in Articles 70(2), 72 and 76 thereof.

(f) The transitional provisions of this Agreement shall apply instead of Art. 66 of the Regulation.

(g) In Annex I the following shall be added: ”in Denmark: Article 246(2) and (3) of the Administration of Justice Act (*lov om rettens pleje*)”.

(h) In Annex II the following shall be added: ”in Denmark, the ‘*byret*’”.

(i) In Annex III the following shall be added: ”in Denmark, the ‘*landsret*’”.

(j) In Annex IV the following shall be added: ”in Denmark, an appeal to the ‘*Højesteret*’ with leave from the ‘*Procesbevillingsnævnet*’”.

ARTICLE 3

Amendments to the Brussels I Regulation

1. Denmark shall not take part in the adoption of amendments to the Brussels I Regulation and no such amendments shall be binding upon or applicable in Denmark.

2. Whenever amendments to the Regulation are adopted Denmark shall notify the Commission of its decision whether or not to implement the content of such amendments. Notification shall be given at the time of the adoption of the amendments or within 30 days hereafter.

3. If Denmark decides that it will implement the content of the amendments the notification shall indicate whether implementation can take place administratively or requires parliamentary approval.

4. If the notification indicates that implementation can take place administratively the notification shall, moreover, state that all necessary administrative measures enter into force on the date of entry into force of the amendments to the Regulation or have entered into force on the date of the notification, whichever date is the latest.

5. If the notification indicates that implementation requires parliamentary approval in Denmark the following rules shall apply:

   (a) Legislative measures in Denmark shall enter into force on the date of entry into force of the amendments to the Regulation or within 6 months after the notification, whichever date is the latest;

   (b) Denmark shall notify the Commission of the date upon which the implementing legislative measures enter into force.

6. A Danish notification that the content of the amendments has been implemented in Denmark, cf. paragraph 4 and 5, creates mutual obligations under international law between Denmark and the Community. The amendments to the Regulation shall then constitute amendments to this Agreement and shall be considered annexed hereto.

7. In case:

   (a) Denmark notifies its decision not to implement the content of the amendments; or

   (b) Denmark does not make a notification within the 30 days time limit set out in paragraph 2; or

   (c) Legislative measures in Denmark do not enter into force within the time limits set out in paragraph 5;

this Agreement shall be considered terminated unless the parties decide otherwise within 90 days or, in the situation referred to under c, legislative measures in Denmark enter into force within the same period. Termination shall take effect 3 months after the expiry of the 90 days period.

8. Legal proceedings instituted and documents formally drawn up or registered as authentic instruments before the date of termination of the Agreement as set out in paragraph 7 are not affected hereby.

ARTICLE 4

Implementing measures

1. Denmark shall not take part in the adoption of opinions by the Committee referred to in Article 75 of the Brussels I Regulation. Implementing measures adopted pursuant to Article 74(2) shall not be binding upon and shall not be applicable in Denmark.

2. Whenever implementing measures are adopted pursuant to Article 74(2) of the Regulation, the implementing measures shall be communicated to Denmark. Denmark shall notify the Commission of its decision whether or not to implement the content of the implementing measures. Notification shall be given upon receipt of the implementing measures or within 30 days hereafter.

3. The notification shall state that all necessary administrative measures in Denmark enter into force on the date of entry into force of the implementing measures or have entered into force on the date of the notification, whichever date is the latest.

4. A Danish notification that the content of the implementing measures has been implemented in Denmark creates mutual obligations under international law between Denmark and the Community. The implementing measures will then form part of this Agreement.

5. In case:

   (a) Denmark notifies its decision not to implement the implementing measures; or

   (b) Denmark does not make a notification within the 30 days time limit set out in paragraph 2;

   this Agreement shall be considered terminated unless the parties decide otherwise within 90 days. Termination shall take effect 3 months after the expiry of the 90 days period.

6. Legal proceedings instituted and documents formally drawn up or registered as authentic instruments before the date of termination of the Agreement as set out in paragraph 5 are not affected hereby.

7. If in exceptional cases the implementation requires parliamentary approval in Denmark, the Danish notification under paragraph 2 shall indicate this and the provisions of Article 3(5)–(8) shall apply.

8. Denmark shall notify the Commission of texts amending the items set out in Article 2(2)(f)–(i) of this Agreement. The Commission shall adapt Article 2(2)(f)–(i) accordingly.

ARTICLE 5

International agreements which affect the Agreement

1. International agreements entered into by the Community based on the rules of the Brussels I Regulation shall not be binding upon and shall not be applicable in Denmark.

2. Denmark will abstain from entering into international agreements which may affect or alter the scope of the Brussels I Regulation as annexed to this Agreement unless it is done in agreement with the Community and satisfactory arrangements have been made with regard to the relationship between this Agreement and the international agreement in question.

3. When negotiating international agreements that may affect or alter the scope of the Brussels I Regulation as annexed to this Agreement**,** Denmark will co-ordinate its position with the Community and will abstain from any actions that would jeopardise the objectives of a Community position within its sphere of competence in such negotiations.

ARTICLE 6

Jurisdiction of the Court of Justice of the European Communities in relation to the interpretation of the Agreement

1. Where a question on the validity or interpretation of this Agreement is raised in a case pending before a Danish court or tribunal, that court or tribunal shall request the Court of Justice to give a ruling thereon whenever under the same circumstances a court or tribunal of another Member State of the European Union would be required to do so in respect of the Brussels I Regulation and its implementing measures referred to in Article 2(1).

2. Under Danish law, the courts in Denmark shall, when interpreting this Agreement, take due account of the rulings contained in the case law of the Court of Justice in respect of provisions of the Brussels Convention, the Brussels I Regulation and any implementing Community measures.

3. Denmark may, like the Council, the Commission and any Member State, request the Court of Justice to give a ruling on a question of interpretation of this Agreement. The ruling given by the Court of Justice in response to such a request shall not apply to judgments of courts or tribunals of the Member States which have become res judicata.

4. Denmark shall be entitled to submit observations to the Court of Justice in cases where a question has been referred to it by a court or tribunal of a Member State for a

preliminary ruling concerning the interpretation of any provision referred to in Article 2(1).

5. The Protocol on the Statute of the Court of Justice of the European Communities and its Rules of Procedure shall apply.

6. If the provisions of the Treaty establishing the European Community regarding rulings by the Court of Justice are amended with consequences for rulings in respect of the Brussels I Regulation, Denmark may notify the Commission of its decision not to apply the amendments in respect of this Agreement. Notification shall be given at the time of the entry into force of the amendments or within 60 days hereafter.

   In such a case this Agreement shall be considered terminated. Termination shall take effect 3 months after the notification.

7. Legal proceedings instituted and documents formally drawn up or registered as authentic instruments before the date of termination of the Agreement as set out in paragraph 6 are not affected hereby.

ARTICLE 7

Jurisdiction of the Court of Justice of the European Communities in relation to compliance with the Agreement

1. The Commission may bring before the Court of Justice cases against Denmark concerning non-compliance with any obligation under this Agreement.

2. Denmark may bring a complaint to the Commission as to the non-compliance by a Member State of its obligations by virtue of this Agreement.

3. The relevant provisions of the Treaty establishing the European Community governing proceedings before the Court of Justice as well as the Protocol on the Statute of the Court of Justice of the European Communities and its Rules of Procedure shall apply.

ARTICLE 8

Territorial application

1. This Agreement shall apply to the territories referred to in Article 299 of the Treaty establishing the European Community.

2. If the Community decides to extend the application of the Brussels I Regulation to territories currently governed by the Brussels Convention, the Community and Denmark shall cooperate in order to ensure that such an application also extends to Denmark.

ARTICLE 9

Transitional provisions

1. This Agreement shall apply only to legal proceedings instituted and to documents formally drawn up or registered as authentic instruments after the entry into force thereof.

2. However, if the proceedings in the Member State of origin were instituted before the entry into force of this Agreement, judgments given after that date shall be recognised and enforced in accordance with this Agreement,

   (a) if the proceedings in the Member State of origin were instituted after the entry into force of the Brussels or the Lugano Convention both in the Member State of origin and in the Member State addressed;

   (b) in all other cases, if jurisdiction was founded upon rules which accorded with those provided for either in this Agreement or in a convention concluded between the Member State of origin and the Member State addressed which was in force when the proceedings were instituted.

ARTICLE 10

Relationship to the Brussels I Regulation

1. This Agreement shall not prejudice the application by the Member States of the Community other than Denmark of the Brussels I Regulation.

2. However, this Agreement shall in any event be applied:

   (a) in matters of jurisdiction, where the defendant is domiciled in Denmark, or where Article 22 or 23 of the Regulation, applicable to the relations between the Community and Denmark by virtue of Article 2 of this Agreement, confer jurisdiction on the courts of Denmark;

   (b) in relation to a lis pendens or to related actions as provided for in Articles 27 and 28 of the Brussels I Regulation, applicable to the relations between the Community and Denmark by virtue of article 2 of this Agreement, when proceedings are instituted in a Member State other than Denmark and in Denmark;

   (c) in matters of recognition and enforcement, where Denmark is either the State of origin or the State addressed.

ARTICLE 11

Termination of the agreement

1. This Agreement shall terminate if Denmark informs the other Member States that it no longer wishes to avail itself of the provisions of Part I of the Protocol on the position of Denmark, cf. Article 7 of that Protocol.

2. This Agreement may be terminated by either Contracting Party giving notice to the other Contracting Party. Termination shall be effective six months after the date of such notice.

3. Legal proceedings instituted and documents formally drawn up or registered as authentic instruments before the date of termination of the Agreement as set out in paragraph 1 or 2 are not affected hereby.

ARTICLE 12

Entry into force

1. The Agreement shall be adopted by the Contracting Parties in accordance with their respective procedures.

2. The Agreement shall enter into force on the first day of the sixth month following the notification by the Contracting Parties of the completion of their respective procedures required for this purpose.

ARTICLE 13

Authenticity of texts

This Agreement is drawn up in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovene, Slovak, Spanish and Swedish languages, each of these texts being equally authentic.

Annex

Council Regulation (EC) No. 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as amended by Commission Regulation No. 1496/2002 of 21 August 2002 amending Annex I (the rules of jurisdiction referred to in Article 3(2) and Article 4(2)) and Annex II (the list of competent courts and authorities) to Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters and by Commission Regulation (EC) No. 1937/2004 of 9 November 2004 amending Annexes I, II, III and IV to Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.