COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 17.9.2004
COM(2004)594 final

2004/0205 (CNS)

Proposal for

COUNCIL DECISION

on the signing of the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention

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(presented by the Commission)

EXPLANATORY MEMORANDUM

I. POLITICAL AND LEGAL BACKGROUND

Further to Articles 1 and 2 of the Protocol on the position of Denmark annexed to the TEU and the TEC, Denmark did not take part in the adoption by the Council of Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national ("the Dublin II Regulation") and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention ("the Eurodac Regulation").

However, Denmark is a party to the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities ("the Dublin Convention"), signed in Dublin on 15 June 1990.

On 19 January 2001 the Community concluded an Agreement with the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway. Article 12 of that Agreement states that Denmark may request to participate in the Agreement, and that the conditions for such participation are to be determined by the Community, Norway and Iceland, acting with the consent of Denmark, in a Protocol to the Agreement.

Denmark has asked to conclude international agreements with the Community with a view to regulating its relations with the other Member States by taking over the existing Community instruments.

In its Communication of April 2002, while approving the possibility of concluding international agreements in certain specific cases with Denmark on an exceptional, temporary basis, the Commission nevertheless laid down the conditions for such agreements, in particular with regard to the jurisdiction of the Court of Justice and Denmark's obligations as regards its external relations in the relevant fields. By Decision of 6 May 2003, the Council authorised the Commission to negotiate an agreement with the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, and to negotiate with the Republic of Iceland and the Kingdom of Norway the conclusion of a Protocol pursuant to Article 12 of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway. It deemed it important to conclude an agreement with Denmark at the same time as the Protocol to the Agreement with Norway and Iceland to ensure that the Court of Justice had jurisdiction in respect of Denmark as regards both the interpretation and the validity of the agreements and regulations in question, and to regulate the mutual obligations arising from international agreements.

Negotiations for the Agreement began in June 2003 and the document was initialled on 8 June 2004.

As regards the Community, the legal basis of the Agreement is Article 63(1)(a), read in conjunction with Article 300 TEC.

The enclosed proposals are the legal instrument for the signing and conclusion of the Agreement. The Council will act by qualified majority (Article 251 on the basis of the first indent of Article 67(5) TEC). According to Article 300(3) TEC, the European Parliament will have to be consulted officially on the conclusion of the Agreement.

II. RESULTS OF THE NEGOTIATIONS

The Commission takes the view that the objectives set by the Council in its negotiating directives have been reached and that the draft Agreement is acceptable to the Community.

The final contents of the Agreement can be summarised as follows:

– the Agreement consists of 11 articles in total. It also has an Annex, which forms an integral part of it;

– it makes the provisions determining the State responsible for examining applications for asylum lodged in Denmark or in another Member State by a third-country national applicable in Denmark;

– it makes the Court of Justice responsible for ensuring the uniform interpretation and validity of the provisions of the Agreement and the Regulations to which it refers;

– it confers on the Court of Justice jurisdiction to hear and determine questions referred for a preliminary ruling by the Danish courts regarding the interpretation of the provisions of the Agreement under the same arrangements as those applicable to the courts and tribunals of the other Member States;

– it confers on the Court of Justice jurisdiction to give a ruling, at Denmark's request, on questions concerning the interpretation of the provisions governed by the Agreement, under the same circumstances and with the same effects as in respect of the other Member States, the Council or the Commission on questions concerning the interpretation of the Regulations adopted pursuant to Article 63 TEC;

– the infringement procedures established by the TEC apply;

– under the Agreement Denmark is bound to accept any amendments to the Regulations to which it refers and their implementing measures;

– the Agreement regulates the mutual obligations of the contracting parties in cases where one contracting party wishes to conclude an international agreement which affects the provisions governed by the Agreement;

– the Agreement contains provisions obliging Denmark to make an annual contribution to the operational costs associated with the establishment and operation of the

Central Unit of Eurodac based on its gross national product as a percentage of the overall gross national product of all the Member States;

– the recitals of the Agreement provide for the Dublin Convention to be replaced by the Agreement as regards relations between Denmark and the other Member States;

– the Agreement contains provisions concerning its termination.

III. CONCLUSIONS

In the light of the above considerations, the Commission proposes that the Council:

– decide that the Agreement be signed on behalf of the Community and authorise the President of the Council to appoint the person(s) duly empowered to sign on behalf of the Community;

– approve, after consulting the European Parliament, the attached Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(1)(a) thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) thereof,

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

Whereas:

(1) By Decision of 6 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 Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention,

(2) Negotiations with a view to signing the Agreement took place between June 2003 and April 2004,

(3) Subject to its possible conclusion at a later date, the Agreement initialled at Luxembourg on 8 June 2004 should be signed,

(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, will take part in adopting and applying this Decision,

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[1] OJ C …

HAS DECIDED AS FOLLOWS:

Sole Article

Subject to its possible conclusion at a later date, the President of the Council is authorised to appoint the person(s) empowered to sign, on behalf of the Community, the Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.

Done at Brussels,

For the Council
The President

2004/0205 (CNS)

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63(1)(a) thereof, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,[2]

Having regard to the opinion of the European Parliament[3]

Whereas:

(1) The Commission has negotiated on behalf of the European Community an Agreement between the European Community and the Kingdom of Denmark extending to Denmark the provisions of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention,

(2) The Agreement was signed, on behalf of the European Community, on ..... 2004, subject to its possible conclusion at a later date, in accordance with Decision .../...../EC of the Council of [.....],

(3) This Agreement should be approved,

(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, will take part in adopting and applying this Decision,

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2 OJ C …

3 OJ C …

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 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Council Regulation (EC) No 2725/2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention is approved on behalf of the Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council shall make the notification provided for in Article 10(2) of the Agreement.[4]

Article 3

This Decision shall be published in the Official Journal of the European Union.

Done at Brussels,

For the Council
The President

[4] The date of entry into force of the Agreement shall be the first day of the second month following notification by the contracting parties of …

Annex I

AGREEMENT

between the European Community and

the Kingdom of Denmark

on

the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention

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. REFERRING to Denmark's participation in the Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, signed in Dublin 15 June 1990, hereinafter referred to as the "Dublin Convention",

2. REFERRING to Article 12 of the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or Iceland or Norway,

3. TAKING INTO ACCOUNT that the Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, hereinafter referred to as the "Dublin II Regulation", replaces the "Dublin Convention",

4. NOTING that the Commission Regulation (EC) No 1560/2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national was adopted by the Commission on 2 September 2003,

5. CONSIDERING the importance of the Regulation (EC) No 2725/2000 of 11 December 2000 regarding the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention, hereinafter referred to as the "Eurodac Regulation". The "Eurodac Regulation" and the "Dublin II Regulation" are hereinafter referred to as the "Regulations",

6. NOTING that the Council on 28 February 2002 adopted the Regulation (EC) No 407/2002 regarding certain rules to implement the ”Eurodac Regulation”,

7. 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 ”Dublin II Regulation” and the ”Eurodac Regulation” shall not be binding upon or applicable in Denmark,

8. DESIRING that the provisions of the Regulations, future amendments thereto and the implementing measures relating to them 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,

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 Regulations,

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 Regulations 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 Regulations 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 Member States in respect of the interpretation of the Regulations and their 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, according to the Protocol on the position of Denmark,

15. CONSIDERING that Denmark should, under the same conditions as other Member States in respect of the Regulations and their 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 Regulations 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 Regulations 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 bring a complaint to the Commission as guardian of the Treaty;

19. CONSIDERING that Denmark according to Article 3 of the Protocol on the position of Denmark does not bear financial consequences of measures which are not binding upon or applicable in Denmark other than administrative costs, and that Denmark's contribution to the operational costs linked to the establishment and operation of the Central Unit according to Article 3 of the "Eurodac Regulation" therefore must be determined,

20. STRESSING that a Protocol according to Article 12 of the Agreement between European Community and Iceland and Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or Iceland or Norway shall ensure the relations between Iceland and Norway on the one hand and Denmark on the other hand regarding the provisions of the "Dublin II Regulation" and the "Eurodac Regulation,"

21. DESIRING that the content of this Protocol is determined by the European Community and Iceland and Norway in parallel with this Agreement, acting with the consent of Denmark,

HAVE AGREED AS FOLLOWS:

ARTICLE 1

Aim

1. The aim of this Agreement is to apply the provisions of Council Regulation (EC) No 343/2003 of 18 February 2003 on the criteria and mechanisms for establishing the Member State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union ("Dublin II Regulation), Council

Regulation (EC) No 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention ("Eurodac Regulation") and their implementing measures to the relation between the Community and Denmark, in accordance with Article 2(1) and 2(2).

2. It is the objective of the Contracting Parties to arrive at a uniform application and interpretation of the provisions of the Regulations and their 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

The "Dublin II Regulation" and the "Eurodac Regulation"

1. The provisions of the "Dublin II Regulation" which is annexed to this Agreement and forms part thereof, together with its implementing measures adopted pursuant to Article 27 (2) of the "Dublin II 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, shall under international law apply to the relations between the Community and Denmark.

2. The provisions of the "Eurodac Regulation" which is annexed to this Agreement and forms part thereof, together with its implementing measures adopted pursuant to Article 22 or 23 (2) of the "Eurodac 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, shall under international law apply to the relations between the Community and Denmark.

3. The date of entry into force of this Agreement shall apply instead of the date referred to in Article 29 of the "Dublin II Regulation", and Article 27 of the "Eurodac Regulation".

ARTICLE 3

Amendments to the "Dublin II Regulation" and to the "Eurodac Regulation"

1. Denmark shall not take part in the adoption of amendments to the "Dublin II Regulation" and the "Eurodac Regulation" and no such amendments shall be binding upon or applicable in Denmark.

2. Whenever amendments to the Regulations 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 Regulations 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 Regulations or within 6 months after the notification, whichever date is the latest;

   b) If legislative measures in Denmark have not entered into force on the date the amendments to the Regulations enter into force Denmark shall to the extent compatible with national law apply the substance of the amendments provisionally;

   c) Denmark shall notify the Commission of the date upon which the implementing legislative measures enter into force and of any particular measures taken with respect to provisional application.

6. A Danish notification that the content of the amendments have been implemented in Denmark, cf. paragraph 4 or 5, creates mutual obligations under international law between Denmark and the Community. The amendments to the Regulations 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 within 90 days the parties decide otherwise 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. Requests that have been transmitted in accordance with the "Dublin II Regulation" 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 Article 27 (2) of the "Dublin II Regulation" and Article 23 (2) of the "Eurodac Regulation" or in the adoption of implementing measures adopted pursuant to Article 22 of the "Eurodac Regulation". Implementing measures adopted pursuant to Article 27 (2) of the "Dublin II Regulation" or pursuant to 23 (2) of the "Eurodac Regulation" and implementing measures adopted pursuant to Article 22 of the "Eurodac Regulation" shall not be binding upon and shall not be applicable in Denmark.

2. Whenever implementing measures are adopted pursuant to Article 27 (2) of the "Dublin II Regulation" and pursuant to Article 22 or 23 (2) of the "Eurodac 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 thereafter.

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 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 content of the implementing measures, or

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

   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. Requests that have been transmitted in accordance with the "Dublin II Regulation" 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.

ARTICLE 5

International agreements which affect the "Dublin II Regulation" and the "Eurodac Regulation"

1. International agreements entered into by the Community based on the rules of the "Dublin II Regulation" and the "Eurodac 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 Regulations as annexed to this Agreement concerning the determination of responsibility for examining an asylum application or measures concerning the comparison of fingerprints of third country nationals covered by the "Eurodac Regulation" unless it is done with the agreement of 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 Regulations 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 "Dublin II Regulation" and the "Eurodac Regulation" and their implementing measures referred to in Article 2(1) and 2(2).

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 "Dublin II Regulation" and the "Eurodac 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) and 2(2).

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 "Dublin II Regulation" and the "Eurodac 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. Requests that have been transmitted in accordance with the "Dublin II Regulation" 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

This Agreement shall apply to the territories referred to in Article 299 of the Treaty establishing the European Community and in accordance with Article 26 of the "Eurodac Regulation" and Article 26 of the "Dublin II Regulation".

ARTICLE 8 BIS

Financial contributions regarding "Eurodac"

As far as administrative and operational costs linked to the installation and operation of the Central Unit of Eurodac are concerned, Denmark shall contribute to the annual budget of the EU an annual sum, calculated on the basis of the budgetary appropriations allocated for that purpose, in accordance with the percentage of the Danish gross national product in relation to the overall gross national product of all participating States.

This provision shall apply from the year of the link-up of Denmark to the Central Unit.

The contribution of Denmark to the initial installation of the Central Unit will amount to a lump sum equivalent to the amount reimbursed on the Danish contribution to the General budget of the European Community, because of its initial non-participation to the "Eurodac Regulation".

ARTICLE 9

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, under 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. Requests that have been transmitted before the date of termination of the Agreement as set out in paragraph 1 or 2 are not affected hereby.

ARTICLE 10

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 second month following the notification by the Contracting Parties of the completion of their respective procedures required for this purpose.

ARTICLE 11

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 II

COUNCIL REGULATION (EC) No 343/2003 of 18 February 2003 adopted by the Council of the European Union establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national

COUNCIL REGULATION (EC) No 2725/2000 of 11 December 2000 adopted by the Council of the European Union concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention