COMMISSION OF THE EUROPEAN COMMUNITIES



Brussels, 28.4.2006 COM(2006) 182 final

2006/0065 (CNS)

Proposal for a

COUNCIL REGULATION

on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2006 to 15 June 2007

(presented by the Commission)

EN EN

EXPLANATORY MEMORANDUM

The Protocol to the Fisheries Agreement between the European Community and the Government of the Republic of Guinea-Bissau expired on 15 June 2006. This proposal for a Council Decision concerns the provisional application of the extension of the Protocol for one more year, until 15 June 2007.

The two parties agreed in December 2005 to extend this Agreement, mainly in order to give the Government of the Republic of Guinea-Bissau time to prepare itself as well as possible for negotiations on a future partnership agreement, taking account of the political context (elections in June 2005 and change of Government in November 2005), and to implement the action programme to support the control and inspection required for the sustainable development of the fisheries sector. This extension should thus enable the new Government to conduct negotiations under reasonable conditions and within reasonable deadlines, without suspending either the Agreement or the annual financial compensation, which is essential for balancing the budget of the State of Guinea-Bissau.

The two parties agreed to extend the Protocol for one year, from 16 June 2006 to 15 June 2007. This extension, in the form of an Exchange of Letters, was initialled by the parties on 17 January 2006, and sets out the technical and financial conditions governing the fishing activities of EC vessels in the waters of Guinea-Bissau for the period from 16 June 2006 to 15 June 2007.

The Commission proposes, on this basis, that the Council adopt the Regulation on the conclusion of an Agreement in the form of an Exchange of Letters extending the Protocol.

A proposal for a Council Decision on the provisional application of the Agreement in the form of an Exchange of Letters extending the Protocol pending its final entry into force is the subject of a separate procedure.

Proposal for a

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THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Under the terms of the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau³, the contracting parties are to enter into negotiations, before the period of validity of the Protocol to the Agreement expires, to determine by mutual agreement the contents of the Protocol for the period that follows and any amendments or additions requiring to be made to the Annex.
- (2) Pending negotiations on changes to be made to the existing Protocol approved by Council Regulation (EC) No 249/2002⁴, as amended under the Agreement approved by Council Regulation (EC) No 829/2004⁵, the two parties have decided to extend its validity for one year by means of an Agreement in the form of an Exchange of Letters.
- (3) It is in the Community's interest to approve this extension.
- (4) The allocation of the fishing opportunities among the Member States under the expired Protocol should be confirmed,

⁵ OJ L 127, 29.4.2004, p. 25.

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¹ OJ C [...], [...], p. [...].

OJ C [...], [...], p. [...].

OJL 226, 29.8.1980, p. 34.

OJL 47, 19.2.2002, p. 2.

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement in the form of an Exchange of Letters concerning the extension of the Protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2006 to 15 June 2007, is hereby approved on behalf of the Community.

The text of the Agreement is attached to this Regulation.

Article 2

- 1. The fishing opportunities set out in the Protocol are allocated to Member States as follows:
 - (a) shrimps:

Italy	1776	GRT
Spain	1421	GRT
Portugal	1066	GRT
Greece	137	GRT

(b) fin-fish/cephalopods:

Spain 3143 GRT

Italy 786 GRT

Greece 471 GRT

(c) tuna seiners:

Italy

Spain 20 vessels
France 19 vessels

(d) surface longliners and pole-and-line vessels:

Spain 21 vessels
France 5 vessels
Portugal 4 vessels

1 vessel

2. If licence applications from the Member States referred to in paragraph 1 do not cover all the fishing opportunities fixed by the Protocol, the Commission may consider licence applications from any other Member State.

Article 3

The Member States whose vessels fish under this Agreement shall notify the Commission of the quantities of each stock caught within the fishing zone of Guinea-Bissau in accordance with Commission Regulation (EC) No 500/2001⁶.

Article 4

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

⁶ OJ L 73, 15.3.2001, p. 8.

AGREEMENT

in the form of an Exchange of Letters concerning the extension of the Protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2006 to 15 June 2007

A. <u>Letter from the Community</u>

Sir,

I have the honour to confirm that pending negotiations on amendments to be made to the Protocol currently in force (16 June 2001 to 15 June 2006) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau, as revised from 16 June 2004, we agree to the following interim arrangements:

1. From 16 June 2006 to 15 June 2007 the arrangements applicable since 16 June 2004 will continue in operation.

The Community's financial contribution under the interim arrangements will correspond to the amount provided for in Article 3 of the revised Protocol currently in force (EUR 7 260 000). That amount is to be treated entirely as financial compensation and will be paid no later than 31 December 2006.

2. During this period, fishing licences will be granted within the limits set in Article 1 of the revised Protocol currently in force, by means of fees or advances corresponding to those fixed in point 1 of the Annex to the Protocol.

I should be obliged if you would acknowledge receipt of this letter and confirm that you are in agreement with its terms.

Please accept, Sir, the assurance of my highest consideration.

On behalf of the Council of the European Union.

B. Letter from the Government of the Republic of Guinea-Bissau

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

"I have the honour to confirm that pending negotiations on amendments to be made to the Protocol currently in force (16 June 2001 to 15 June 2006) setting out the fishing opportunities and financial contribution provided for in the Fisheries Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau, as revised from 16 June 2004, we agree to the following interim arrangements:

1. From 16 June 2006 to 15 June 2007 the arrangements applicable since 16 June 2004 will continue in operation.

The Community's financial contribution under the interim arrangements will correspond to the amount provided for in Article 3 of the revised Protocol currently in force (EUR 7 260 000). That amount is to be treated entirely as financial compensation and will be paid no later than 31 December 2006.

2. During this period, fishing licences will be granted within the limits set in Article 1 of the revised Protocol currently in force, by means of fees or advances corresponding to those fixed in point 1 of the Annex to the Protocol."

I have the honour to confirm that the contents of your letter are acceptable to the Government of the Republic of Guinea-Bissau and that your letter and this one constitute an agreement in accordance with your proposal.

Please accept, Sir, the assurance of my highest consideration.

For the Government of the Republic of Guinea-Bissau.

LEGISLATIVE FINANCIAL STATEMENT

1. TITLE OF THE PROPOSAL:

Proposal for a Council Regulation on the conclusion of the Agreement in the form of an Exchange of Letters concerning the extension of the Protocol establishing the fishing opportunities and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea-Bissau on fishing off the coast of Guinea-Bissau for the period 16 June 2006 to 15 June 2007

2. ABM / ABB FRAMEWORK

11. Fisheries

1103. International Fisheries Agreements

3. BUDGET LINES

3.1. Budget lines:

110301: International Fisheries Agreements

11010404: International Fisheries Agreements: administrative costs

3.2 Duration of the action and of the financial impact:

The Protocol to the Fisheries Agreement between the European Community and Republic of Guinea-Bissau expires on 15 June 2006. **The extension of the Protocol is concluded for one year.**

The Protocol sets out the financial contribution, the types of fishing and the conditions governing the fishing activities of Community vessels in the fishing zones of Guinea-Bissau.

The two parties agreed in December 2005 to extend this Agreement, mainly in order to give the Government of the Republic of Guinea-Bissau time to prepare itself as well as possible for negotiations on a future partnership agreement, taking account of the political context (elections in June 2005 and change of Government in November 2005), and to implement the action programme to support the control and inspection required for the sustainable development of the fisheries sector. This extension should thus enable the new Government to conduct negotiations under reasonable conditions and within reasonable deadlines, without suspending either the Agreement or the annual financial compensation, which is essential for balancing the budget of the State of Guinea-Bissau.

The two parties agreed to extend the Protocol for one year, from 16 June 2006 to 15 June 2007. This extension, in the form of an Exchange of Letters, was initialled by the two parties on 17 January 2006, and sets out the technical and financial conditions governing the fishing activities of EC vessels in the waters of Guinea-Bissau for the period from 16 June 2006 to 15 June 2007.

3.3 Budgetary characteristics (add rows if necessary):

Budget line	Type of 6	expenditure	New	EFTA contribution	Contribution s from applicant countries	Heading in financial perspective	
11.0301	Comp.	Diff. ⁷	NO	NO	NO	No 4	
11.010404	Comp.	Non-diff. ⁸	NO	NO	NO	No 4	

4. SUMMARY OF RESOURCES

4.1 Financial Resources

4.1.1 Summary of commitment appropriations (CA) and payment appropriations (PA)

(EUR million to four decimal places)

Type of expenditure	Section No		Year n	n +1	n + 2	n +3	Total
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Operational expenditure9

Commitment appropriations (CA)	8.1	a	7.260		7.260
Payment appropriations (PA)		b	7.260		7.260

Administrative expenditure within reference amount¹⁰

Technical &					
administrative assistance (Non-diff.)	8.2.4	С	0.0495		0.0495

Differentiated appropriations

⁸ Non-differentiated appropriations

Expenditure that does not fall under Chapter 11 01 01 of the Title 11 concerned.

Expenditure within Article xx 01 04 of Title xx.

TOTAL REFERENCE AMOUNT

Commitment appropriations	a+c	7.3095		7.3095
Payment appropriations	b+c	7.3095		7.3095

Human resources and associated expenditure (Non-diff.)	8.2.5	d	0.0864		0.0864
Administrative costs, other than human resources and associated costs, not included in reference amount (Nondiff.)	8.2.6	e	0.033		0.033

Total indicative financial cost of intervention

TOTAL CA including cost of human resources	a+c+d+e	7.4289		7.4289
TOTAL PA including cost of human resources	b+c+d+e	7.4289		7.4289

Part-financing details: No part-financing

(EUR million to three decimal places)

Part-financing body		Year n	n + 1	n + 2	n + 3	Total
	f					
TOTAL CA including part- financing	a+c+d+e+f					

4.1.2 Compatibility with financial programming

X	Proposal	is compatible	with existing	financia	l programr	nıng.
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□ Proposal will entail programming of the relevant heading in the financial perspective.

Proposal may require application of the provisions of the Interinstitutional Agreement¹¹ (i.e. flexibility instrument or revision of the financial perspective).

See points 19 and 24 of the Interinstitutional Agreement.

4.1.3	Financial	impact o	n revenue

- X Proposal has no financial impact on revenue
- Financial impact the effect on revenue is as follows:

Note: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

(EUR million to one decimal place)

		Prior to		Situation following action					
Budget line	Revenue	action [Year n-1]		[Year n]	[n+1]	[n+2]	[n+3]		
	(a) Revenue in absolute terms								
	(b) Change in revenue	Δ							

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

4.2. Human Resources FTE (including officials, temporary and external staff) – see details under point 8.2.1.

Annual requirements	Year n		
Total number of human resources	1.1		

5. CHARACTERISTICS AND OBJECTIVES

5.1 Need to be met in the short or long term

The two parties have agreed to extend the existing Protocol for one year, from 16 June 2006 to 15 June 2007. This extension, which is aimed at enabling Community shipowners to continue fishing in the exclusive economic zone (EEZ) of Guinea-Bissau pending the negotiations on the amendments to be made to the Protocol, was initialled by the two parties on 17 January 2006, and sets out the technical and financial conditions governing the fishing activities of EC vessels in the waters of Guinea-Bissau for the period covered. The main elements of the extended Protocol remain the same, with respect to fishing opportunities, the financial contribution and the amount of the fees paid by shipowners.

5.2 Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Regarding the extension of this Protocol, if the Community does not act, then private agreements will spring up which would not guarantee sustainable fisheries. The Community also hopes that this extension will enable the new Government to be ready to launch the negotiations on a partnership agreement in the fisheries sector without suspending the Agreement (and, therefore, the activities of the fleet fishing under the Community Agreement) or the annual financial compensation, which is essential for balancing the budget of the State of Guinea-Bissau.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The aim of this extension is the same as that of the current protocol with Guinea-Bissau, namely to preserve access for Community fishing vessels to Guinea-Bissau's EEZ in accordance with the types of fishing provided for in the Agreement, while allowing the new Government of Guinea-Bissau extra time to prepare for the forthcoming negotiation on the renewal of the Protocol.

The following indicators will be used in the context of the ABM for the purposes of monitoring implementation of the Agreement:

- monitoring the utilisation rate of the fishing opportunities;
- gathering and analysing data on catches and the commercial value of the Agreement;
- contribution to employment and value-added in the Community;
- contribution to stabilising the Community market;
- contribution to the general objectives of reducing poverty in Guinea-Bissau, including the contribution to employment, development of infrastructure and support for the State budget;
- number of technical meetings and meetings of the Joint Committee.

5.4 Method of implementation (indicative)

Show below the method(s)¹² chosen for the implementation of the action.

- X Centralised Management
 - X Directly by the Commission

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If a number of methods are indicated, please provide details in the "Comments" section.

6. MONITORING AND EVALUATION

6.1 Monitoring system

The Commission (Directorate-General for Fisheries and Maritime Affairs), in collaboration with the Commission Delegation in Guinea-Bissau), will ensure regular monitoring of the implementation of this extension, particularly as regards its use by operators and catch data.

6.2 Assessment

The Protocol currently in force was thoroughly evaluated in December 2005 with the assistance of a consortium of independent consultants, with a view to the possible launch of negotiations on a new protocol. Given that the proposal is for extension of the Protocol's validity for one year only, no specific *ex-ante* evaluation has been carried out.

6.2.1 Ex-ante evaluation

The review of fishing opportunities (from 16 June 2004), as outlined below, and the reduction in the financial contribution from EUR 10 200 000 to EUR 7 260 000 made it possible to improve the profitability of the Agreement and the rate of use of the fishing opportunities granted by it.

Types of fishing	Fishing opportun- ities offered up to 15/6/06)	Use in 2001/02 ¹³	Use in 2002/03	Use in 2003/04	Fishing oppor- tunities offered (since 16/6/04)	Use in 2004/05	Use in 2005/06 ¹⁴
shrimps	9600	1124 (23%)	3098 (32%)	4234 (44%)	4400	4087 (93%)	2249 (51%)
fin-fish/ cephalopods	2800	816 (58%)	1980 (71%)	1564 (56%)	4400	2067 (47%)	221 (7%)
tuna seiners	40	29 (73%)	30 (75%)	29 (73%)	40	25 (63%)	15 (38%)
pole-and-line vessels and surface longliners	36	14 (39%)	15 (42%)	16 (44%)	30	14 (47%)	11 (37%)

Use of the EC/Guinea-Bissau Fisheries Agreement 2001-06

The Agreement is clearly advantageous in that the catch value (average of around EUR 30 million over the period 2001-04 in terms of first-sale prices for landings) exceeds the cost of the Protocol. It is also beneficial to employment: jobs created in connection with the Agreement (directly and indirectly) are estimated at 509 for the EU and 141 for the partner country.

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Calculated on the basis of the average value in the data for the first half of 2002.

In view of its non-final status, the data for the year 2005-06 have not been included in the calculation of the final average.

- Value-added of Community involvement

The value-added/turnover ratios are 9% for shrimp fishing, 8% for fin-fish/cephalopods, 8% for tuna seiners and 33% for pole-and-line tuna vessels and surface longliners. Around a third of the value-added is direct and most of the indirect value-added is derived at a later stage.

The Fisheries Agreement is also essential to Guinea-Bissau's economic and political stability, and to its fishing industry. It provides a substantial share of the budgetary resources of the State of Guinea-Bissau (an average of 38% of budgetary resources over the last five years).

- Risks and alternative options:

A failure to extend the Agreement could cause the fleet to discontinue its activity under the Agreement and fall back on private licences, with the result that sustainable monitoring of the fishing effort could no longer be guaranteed; in addition, it could generate major difficulties for the economy and political stability of Guinea-Bissau, which would be deprived of a budgetary resource essential to the operation of its public services, and financing of the sector's operating costs (control, inspection, research, training, etc.) would no longer be properly covered.

6.2.2 Ex-ante estimate of the economic value of the Agreement and the Community's financial contribution

The financial contribution granted by the Community under this extension is a single allocation established on the basis of one year's extension of the total appropriation for the 2001-06 Protocol, i.e. EUR 7 260 000 by way of financial compensation for fishing opportunities.

6.2.3 Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)

Apart from the review of fishing opportunities (from 16 June 2004) and the reduction in the financial contribution mentioned in point 6.2.1, which made it possible to enhance the profitability of the Agreement, implementation of the support measures representing an appreciable part of the Protocol as revised in 2004 is slow, on account of the weakness of Guinea-Bissau's Ministry of Fisheries, and reprogramming of outstanding amounts, on the basis of the implementing reports transmitted regularly, is being performed in conjunction with the authorities in order to take account of the substantial control and inspection requirements.

7. ANTI-FRAUD MEASURES

The use to which the financial contribution paid by the Community under the Agreement is put is entirely at the discretion of the sovereign third country concerned.

Nevertheless, the Commission undertakes to try and establish permanent political dialogue and cooperation with a view to improving the management of the Protocol extension and strengthening the Community's contribution to the sustainable management of resources.

In any case, any payment which the Commission makes under a fisheries agreement is subject to its standard rules and budgetary and financial procedures. This makes it possible, in particular, to fully identify the bank accounts of the third countries onto which the financial contribution is paid.

8. **DETAILS OF RESOURCES**

8.1 Objectives of the proposal in terms of their financial cost

Commitments (in EUR million to four decimal places)

(Headings of objectives, actions and outputs should be provided)	Type of output	Year	n	Year n+1		Year n+2		TOTAL	
and outputs should be provided)		No. of outputs	Total cost						
OPERATIONAL OBJECTIVE No. 1 ¹⁵ : To obtain fishing opportunities in exchange for a financial contribution Action 1									
- Output 1	Vessels/licences	8800 GRT						8800 GRT	
	quota	70 vessels	7.260					70 vessels	7.260
TOTAL COST			7.260						7.260

As described under Section 5.3

8.2 Administrative expenditure

8.2.1 Number and type of human resources

Type of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)				
		Year n				
Officials or temporary staff ¹⁶ (11 01 01)	A*/AD	0,5				
	B*, C*/AST	0,3				
Staff financed by Art. 11 01 02 ¹⁷						
Other staff financed by Art. 11 01 04 04 ¹⁸		0.3				
TOTAL		1.1				

8.2.2 Description of tasks deriving from the action

- Assisting the negotiator to prepare and conclude the negotiation of fisheries agreements:
 - taking part in negotiations with third countries to conclude fisheries agreements;
 - preparing draft evaluation reports and negotiation strategy notes for the Commissioner:
 - presenting and defending the Commission's position in the Council's "External Fisheries" Working Party;
 - taking part in the search for a compromise with the Member States to be included in the final text of the Agreement.
- Monitoring the implementation of agreements:
 - daily monitoring of fisheries agreements;
 - preparing and checking the commitment and payment of the financial compensation and support measures;
 - regular reporting on the implementation of agreements;

Cost of which is NOT covered by the reference amount.

Cost of which is NOT covered by the reference amount.

Cost of which is covered by the reference amount.

- evaluating agreements: scientific and technical aspects;
- preparing the draft proposal for a Council regulation and decision and drafting the text of the agreement;
- launching and monitoring adoption procedures.

• Technical assistance:

preparing the Commission's position for the Joint Committee.

• Inter-institutional relations:

- representing the Commission before the Council, the European Parliament and the Member States in the negotiation process;
- writing the replies to oral and written questions from the European Parliament.
- Interdepartmental consultation and coordination:
 - liaising with the other Directorates-General on matters relating to the negotiation and monitoring of agreements;
 - organising and responding to interdepartmental consultations.

• Evaluation:

- taking part in updating the impact assessment;
- analysing the achieved objectives and evaluation indicators.

8.2.3 Sources of human resources (statutory)

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

X	Posts currently allocated to the management of the programme to be replaced or extended
	Posts pre-allocated within the APS/PDB exercise for year 2005
	Posts to be requested in the next APS/PDB procedure
	Posts to be redeployed using existing resources within the managing service (internal redeployment)
	Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

8.2.4 Other administrative expenditure included in reference amount (11 01 04/05 – Expenditure on administrative management)

(EUR million to three decimal places)

Budget heading: 11010404	Year n		TOTAL
(number and heading)			
1. Technical and administrative assistance (including related staff costs)			
Executive agencies ¹⁹			
Other technical and administrative assistance			
- intra muros			
- extra-muros	0.0495*		0.0495
Total technical and administrative assistance	0.0495		0.0495

^{*}ALAT post: regional fisheries expert-EC Delegation in Senegal: EUR 165 000 per year x 0.3= EUR 49 500/year

8.2.5 Financial cost of human resources and associated costs <u>not</u> included in the reference amount

(EUR million to four decimal places)

Type of human resources	Year n		
Officials and temporary staff (11 01 01)	0.0864		
Staff financed by Art. XX 01 02 (auxiliary, END, contract staff, etc.)			
(specify budget line)			
Total cost of human resources and associated costs (NOT in reference amount)	0.0864		

Reference should be made to the specific legislative statement for the Executive Agency/Agencies concerned.

Calculation- Officials and contract staff

Reference should be made to Point 8.2.1, if applicable

1A = EUR 108 000*0.50 = EUR 54 000

1B = EUR 108 000*0.15 = EUR 16 200

1C = EUR 108 000*0.15 = EUR 16 200

Subtotal: EUR 86.400 (EUR 0.0864 million per year)

Total: EUR 86.400 (EUR 0.0864 million per year)

Calculation – Staff financed under Article XX 01 02

Reference should be made to Point 8.2.1, if applicable

8.2.6 Other administrative expenditure <u>not</u> included in reference amount

(EUR million to three decimal places)

	Year n	Year n+1	Year n+2	TOTAL
11 01 02 11 01 – Missions	0.030			0.030
11 01 02 11 02 – Meetings and conferences	0.003			0.003
XX 01 02 11 03 – Committees ²⁰				
XX 01 02 11 04 - Studies and consultations				
XX 01 02 11 05 - Information systems				
2. Total other management expenditure (XX 01 02 11)				
3. Other expenditure of an administrative nature (specify including reference to budget line)				
Budget line 11 01 04 04				
Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0.033			0.033

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Specify the type of committee and the group to which it belongs.