



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.06.1997
COM(97) 330 final

97/0180 (CNS)

Proposal

for a

COUNCIL DECISION

concerning the conclusion of the Convention
on the Transboundary Effects of Industrial Accidents

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. A Convention of the United Nations Economic Commission for Europe on the Transboundary Effects of Industrial Accidents was signed in Helsinki, Finland, on the 18th of March 1992 by 26 countries, including 14 Member States of the Community, as well as by the Community itself.

In accordance with Article 30, paragraph 1, the Convention shall enter into force on the ninetieth day following the day after the date of deposit of the sixteenth instrument of ratification, acceptance, approval or accession.

2. The Convention on the Transboundary Effects of Industrial Accidents was prepared taking particular account of the relevant provisions of the final Act of the Conference on Safety and Co-operation in Europe (CSCE) and the Declaration of the United Nations Conference on the Environment, in particular Principle 21.
3. The Convention on the Transboundary Effects of Industrial Accidents lays down a number of provisions aimed at protecting human beings and the environment against industrial accidents capable of causing transboundary effects and at promoting active international co-operation between the Contracting Parties before, during and after such an accident.
4. The work on drawing up the Draft Convention was heavily influenced by Community policy on the control of major-accident hazards involving dangerous substances and by legislation in this field, in particular Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities¹ and Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances², and taking into account the principle of "polluter pays" as a general principle of international law on the environment.
5. Consequently, it appears that the Community and the Member States have the legal and technical instruments to fulfill their obligations arising out of the Convention. Therefore, the Commission considers it desirable that the Community and the Member States, in their respective areas of competence, should start their procedure for ratification, acceptance, approval of or accession to the Convention as quickly as possible.
6. The measures prescribed by the Convention contribute to the realization of the objectives of the Community environmental policy.

Consequently, the Decision must be based on Article 130R, paragraph 4, in connection with Article 228, paragraph 2, first sentence and paragraph 3, first subparagraph of the Treaty establishing the European Community.

¹ OJ No L 230, 5. 8. 1982. Directive as amended by Directive 87/216/EEC (OJ No L 85, 28. 3. 1987), Directive 88/610/EEC (OJ No L 336, 7. 12. 1988) and Directive 91/692/EEC (OJ No L 377, 31. 12. 1991)

² OJ No L 10, 14. 1. 1997

7. The Convention on the Transboundary Effects of Industrial Accidents does neither prohibit the formulation of reservations nor does it provide that only specified reservations may be made. Therefore, in accordance with the Vienna Convention on the Law of Treaties, the Community may formulate reservations when approving the Convention, provided that these reservations are not incompatible with the object and purpose of the Convention.

For certain substances (Bromine, Methanol, Oxygen and substances dangerous for the environment), the threshold quantities set out in Council Directive 96/82/EC differ from those mentioned in Annex I, Part 1 of the Convention.

However, it is not possible for the moment to amend Council Directive 96/82/EC with a view to adopting the threshold quantities mentioned in Annex I, Part 1 of the Convention.

Therefore, to be able to approve the Convention and in order to avoid a possible breach of provisions of the Convention, the Community has to formulate reservations regarding the threshold quantities of Annex I, Part 1 of the Convention for the above mentioned substances.

Proposal

for a

COUNCIL DECISION

of.....

concerning the conclusion of the Convention
on the Transboundary Effects of Industrial Accidents

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Article 130R, paragraph 4 thereof, in connection with Article 228, paragraph 2, first sentence and paragraph 3, first subparagraph,

Having regard to the proposal of the Commission,

Having regard to the opinion of the European Parliament,

Whereas the Commission has taken part, on behalf of the Community, in the negotiations with a view to the conclusion of the Convention on the Transboundary Effects of Industrial Accidents; and whereas the Convention was signed in Helsinki on the 18th March 1992 on behalf of the Community;

Whereas the Convention aims at protecting human beings and the environment against industrial accidents capable of causing transboundary effects and at promoting active international co-operation between the Contracting Parties before, during and after such an accident;

Whereas the conclusion of the Convention comes within the scope of the Community's participation in international measures to protect the environment, recommended by the fifth Action Programme on the Environment, the general approach of which was approved by the Council and the representatives of the Governments of the Member States, meeting within Council, in their resolution of 1 February 1993¹;

Whereas, in accordance with the principles stated in Article 130R of the Treaty, the control of major-accident hazards involving dangerous substances constitutes a matter of utmost importance for all Member States in view of the cross-border nature of the effects on the environment and human health of such major industrial accidents;

Whereas Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities² and Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances³ aim at the prevention of major accidents and the limitation of their consequences for man and the environment, and whereas these Directives contain provisions concerning transboundary co-operation;

Whereas it is therefore necessary for the Community to approve the Convention;

Whereas for certain substances (Bromine, Methanol, Oxygen and substances dangerous for the environment), the threshold quantities set out in Council Directive 96/82/EC differ from those mentioned in Annex I, Part 1 of the Convention;

Whereas it will not be possible for the Community to apply the threshold quantities in Annex I, Part 1 of the Convention for the above mentioned substances, and whereas therefore, in order to be able to approve the Convention, reservations have to be formulated;

¹ OJ No C 138, 17. 5. 1993

² OJ No L 230, 5. 8. 1982. Directive as amended by Directive 87/216/EEC (OJ No L 85, 28. 3. 1987), Directive 88/610/EEC (OJ No L 336, 7. 12. 1988) and Directive 91/692/EEC (OJ No L 377, 31. 12. 1991)

³ OJ No L 10, 14. 1. 1997

Whereas, in order to enable the Convention to enter into force without delay, it is necessary for signatory Member States to carry out their procedures for ratification, acceptance or approval of the Convention as soon as possible, in order to enable the Community and the Member States to deposit their instruments of ratification, acceptance or approval,

HAS DECIDED:

Article 1

The Convention on the Transboundary Effects of Industrial Accidents, which was signed at Helsinki on the 18th March 1992, is approved on behalf of the European Community with the reservations figuring in Annex I of this Decision.

The text of the Convention is enclosed with this Decision.

Article 2

The President is authorized to nominate the person or people entitled to deposit, on behalf of the Community, the instrument of approval with the Secretary-General of the United Nations Organization, in accordance with Article 28 of the Convention. When depositing the instrument of approval and the reservations in Annex I, the Community will deposit the declaration of competence figuring in Annex II of this Decision.

Article 3

This Decision is published in the Official Journal of the European Communities.

Done at Brussels,

**For the Council
The President**

RESERVATIONS

The European Community reserves the right:

- (i) as concerns the threshold quantities mentioned in Annex I, Part 1, No 3, 4 and 5 of the Convention, to apply threshold quantities of 100 tonnes for Bromine (very toxic substance), 5000 tonnes for Methanol (toxic substance) and 2000 tonnes for Oxygen (oxidizing substance);
- (ii) as concerns the threshold quantities mentioned in Annex I, Part 1, No 8 of the Convention, to apply threshold quantities of 500 tonnes (risk phrase R50-53¹: "substances very toxic to aquatic organisms which may cause long term adverse effects in the aquatic environment") and 2000 tonnes (risk phrase R51-53²: "substances toxic to aquatic organisms which may cause long term adverse effects in the aquatic environment") for substances dangerous for the environment.

¹ Substances classified according to Directive 67/548/EEC of 27 June 1967 on the approximation of the laws, regulations and administrative provisions relating to the classification, packaging and labelling of dangerous substances (OJ No 196, 16. 8. 1967, p. 1. Directive as last amended by Directive 93/105/EC (OJ No L 294, 30. 11. 1993, p. 21)).

² see footnote 1 above.

**DECLARATION OF THE EUROPEAN COMMUNITY ACCORDING TO ARTICLE
29 PARAGRAPH 4 OF THE CONVENTION ON THE TRANSBOUNDARY
EFFECTS OF INDUSTRIAL ACCIDENTS CONCERNING COMPETENCE**

In accordance with the EC Treaty, in particular article 130R, paragraphs 1 and 2, the objectives and principles of the Community's environmental policy aim, in particular, at preserving and protecting the quality of the environment and human health through preventive action. In pursuit of those objectives, the Council has adopted Council Directive 82/501/EEC of 24 June 1982 on the major-accident hazards of certain industrial activities¹ and Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances². These actions aim at the prevention of major-accident hazards involving dangerous substances and the limitation of their consequences for man and the environment and cover matters which are subject of the Convention on the Transboundary Effects of Industrial Accidents. By virtue of the provisions of Article 130R, paragraph 4 of the EC Treaty, the Community is empowered to conclude international agreements falling within its sphere of competence as defined in article 130R and measures adopted pursuant to this provision.

¹ OJ No L 230, 5. 8. 1982. Directive as amended by Directive 87/216/EEC (OJ No L 85, 28. 3. 1987), Directive 88/610/EEC (OJ No L 336, 7. 12. 1988) and Directive 91/692/EEC (OJ No L 377, 31. 12. 1991)

² OJ No L 10, 14. 1. 1997

ISSN 0254-1475

COM(97) 330 final

DOCUMENTS

EN

14 11 15 01

Catalogue number : CB-CO-97-326-EN-C

ISBN 92-78-21839-1

Office for Official Publications of the European Communities

L-2985 Luxembourg