

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 336 final
Brussels, 07.09.1994

94/0193 (CNS)

Proposal for a

COUNCIL DECISION

ON THE CONCLUSION OF THE

CONVENTION ON THE PROTECTION OF THE ALPS (ALPINE CONVENTION)

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. A Convention on the protection of the Alps (Alpine Convention) was signed in Salzburg (Austria) on 7 November 1991 by six countries, three of which are members of the Community (France, Germany and Italy), and by the Community itself.

Under Article 12(3) this Convention shall enter into force three months after the date by which the third, ratification, acceptance or approval instrument has been deposited.

2. The Alpine Convention was drawn up under the auspices of the Berchtesgaden International Conference held in May 1989 and attended by the Ministers for the Environment of the seven Alpine countries (Austria, France, Germany, Italy, Liechtenstein, Switzerland and Yugoslavia) and by the European Community.

3. The Alpine Convention defines a body of general obligations which aim to find solutions to problems linked with the safeguarding and protection of the Alpine ecosystem, one of the most important in Europe, in order to ensure the sustainable development of alpine regions. It is in fact only a general framework which must be supplemented as quickly as possible by the development and adoption of the protocols which are currently in preparation, in particular in the following areas:

- conservation of nature and the countryside
- mountain farming
- mountain forests
- transport
- energy
- tourism and recreation
- regional planning
- protection of the soil.

4. Work on preparing a draft Convention was widely influenced by the Community's policies and laws relating to the above mentioned sectors. This applies equally to the preparation of the protocols which are intended to ensure practical implementation of the principles set out in the framework Convention. Authorization to sign this on behalf of the Community was given by the Council Decision of 4 November 1991.
5. The Commission feels that it is now desirable that the Community and the Member States which are signatories to the Convention should, within their respective areas of responsibility, be ready to complete their ratification, acceptance or approval procedures relating to the Convention as soon as possible.
6. Although many Community policies and laws may be affected by the Convention and its protocols, the measures prescribed by these acts constitute environmental policy instruments. The Council Decision must therefore have its legal basis in paragraphs 2 and 3 (first paragraph) of Article 228 of the Treaty, in conjunction with Article 130S of the Treaty.

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE
CONVENTION ON THE PROTECTION OF THE ALPS (ALPINE CONVENTION)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular to paragraphs 2 and 3 (first paragraph) of Article 228 thereof in conjunction with Article 130S thereof;

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament;¹

Having regard to the opinion of the Economic and Social Committee;²

Whereas the Commission has been involved, on behalf of the Community, in the negotiations aimed at the conclusion of the Convention on the protection of the Alps (Alpine Convention)³ and whereas that Convention was signed on behalf of the Community on 7 November 1991;⁴

Whereas the conclusion of that Convention forms part of the involvement of the Community in the international activities on the protection of the environment recommended in the Council Resolution of 16 December 1992 on the Vth Programme of Action by the European Communities on the Environment;

Whereas the protection of the Alps is a major challenge to all of the Community Member States owing to the cross-frontier nature of the economic, social and ecological problems of the Alpine area;

1 OJ No C of

2 OJ No C of

3 Council decision of 14.5.1991, not published in the OJ

4 Council decision of 4.11.1991, not published in the OJ

5

Whereas, the Community should therefore approve the said Convention;

Whereas, in order to permit the rapid entry into force of that Convention it is necessary that the Member States which have signed the said Convention should complete as soon as possible their ratification, acceptance and approval procedures relating to the said Convention in order to enable the Community and those Member States to deposit their ratification, acceptance or approval instruments.

HAS ADOPTED THIS DECISION:

Article 1

The Convention on the protection of Alps (Alpine Convention) shall be approved by the European Community.

The text of the Alpine Convention shall be annexed to this Decision.

Article 2

The President of the Council shall, on behalf of the European Community, deposit the approval instrument with the Republic of Austria in accordance with the provisions of Article 12 of the Convention.

Article 3

This decision is addressed to the Member States.

Done at Brussels

The Council

**CONVENTION
ON THE PROTECTION OF THE ALPS**

7

The Federal Republic of Germany,
the French Republic,
the Italian Republic,
the Republic of Slovenia,
the Principality of Liechtenstein,
the Republic of Austria,
the Swiss Confederation
and
the European Economic Community,

aware that the Alps are one of the largest continuous unspoilt natural areas in Europe, which, with their outstanding unique and diverse natural habitat, culture and history, constitute an economic, cultural, recreational and living environment in the heart of Europe, shared by numerous peoples and countries,

recognizing that the Alps constitute the living and economic environment for the indigenous population and are also vitally important for extra-Alpine regions, being the site of important transport routes, for example,

recognizing the fact that the Alps constitute an essential habitat and last refuge for many endangered species of plants and animals,

aware of the substantial differences existing between national legal systems, natural conditions, population distribution, agriculture and forestry, the state and development of the economy, the volume of traffic and the nature and intensity of tourism,

aware that the ever-growing pressures caused by man are increasingly threatening the Alpine region and its ecological functions, and that the damage is either irreparable or rectifiable only with great effort, at considerable cost and, as a rule, over a long period of time,

convinced of the need for economic interests to be reconciled with ecological requirements,

following the outcome of the first Alpine Conference of Environment Ministers held in Berchtesgaden from 9 to 11 October 1989, have agreed as follows:

Article 1

Scope

- (1) The Convention shall cover the Alpine region, as described and depicted in the Annex.

- (2) Each Contracting Party may, when depositing its instrument of ratification, acceptance or approval or at any time thereafter, extend the application of this Convention to additional parts of its national territory by making a declaration to the depositary, the Republic of Austria, provided that this is necessary to implement the provisions of the Convention.

- (3) Any declaration made under paragraph (2) may, in respect of any national territory specified in such declaration, be withdrawn by a notification addressed to the depositary. The withdrawal shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of such notification by the depositary.

Article 2
General Obligations

- (1) The Contracting Parties shall pursue a comprehensive policy for the preservation and protection of the Alps by applying the principles of prevention, payment by the polluter (the "polluter pays" principle) and cooperation, after careful consideration of the interests of all the Alpine States, their Alpine regions and the European Economic Community, and through the prudent and sustained use of resources. Transborder cooperation in the Alpine region shall be intensified and extended both in terms of the territory and the number of subjects covered.

(2) In order to achieve the objective referred to in paragraph (1), the Contracting Parties shall take appropriate measures in particular in the following areas:

- (a) Population and culture - the objective is to respect, preserve and promote the cultural and social independence of the indigenous population and to guarantee the basis for their living standards, in particular environmentally sound settlement and economic development, and promote mutual understanding and cooperation between Alpine and extra-Alpine populations;
- (b) Regional planning - the objective is to ensure the economic and rational use of land and the sound, harmonious development of the whole region, particular emphasis being placed on natural hazards, the avoidance of under- and over-use and the conservation or rehabilitation of natural habitats by means of a thorough clarification and evaluation of land-use requirements, foresighted integral planning and coordination of the measures taken;
- (c) Prevention of air pollution - the objective is to drastically reduce the emission of pollutants and pollution problems in the Alpine region, together with inputs of harmful substances from outside the region, to a level which is not harmful to man, animals and plants;
- (d) Soil conservation - the objective is to reduce quantitative and qualitative soil damage, in particular by applying agricultural and forestry methods which do not harm the soil, through minimum interference with soil and land, control of erosion and the restriction of soil sealing;

- (e) Water management - the objective is to preserve or reestablish healthy water systems, in particular by keeping lakes and rivers free of pollution, by applying natural hydraulic engineering techniques and by using water power, which serves the interests of both the indigenous population and the environment alike;

- (f) Conservation of nature and the countryside - the objective is to protect, conserve and, where necessary, rehabilitate the natural environment and the countryside, so that ecosystems are able to function, animal and plant species, including their habitats, are preserved, nature's capacity for regeneration and sustained productivity is maintained, and the variety, uniqueness and beauty of nature and the countryside as a whole are preserved on a permanent basis.

- (g) Mountain farming - the objective is, in the public interest, to maintain the management of land traditionally cultivated by man and to preserve and promote a system of farming which suits local conditions and is environmentally compatible, taking into account the less favourable economic conditions;

- (h) Mountain forests - the objective is to preserve, reinforce and restore the role of forests, in particular their protective role, by improving the resistance of forest ecosystems mainly by applying natural forestry techniques and preventing any utilization detrimental to forests, taking into account the less favourable economic conditions in the Alpine region;

- (i) Tourism and recreation - the objective is, by restricting activities harmful to the environment, to harmonize tourism and recreational activities with ecological and social requirements, in particular by setting aside quiet areas;
- (j) Transport - the objective is to reduce the volume and dangers of inter-Alpine and trans-Alpine traffic to a level which is not harmful to humans, animals and plants and their habitats, by switching more traffic, in particular freight traffic, to the railways in particular by providing appropriate infrastructures and incentives complying with market principles, without discrimination on grounds of nationality;
- (k) Energy - the objective is to introduce methods for the production, distribution and use of energy which preserve the countryside and are environmentally compatible, and to promote energy-saving measures;
- (l) Waste management - the objective is to develop a system of waste collection, utilization and disposal which meets the special topographic, geological and climatic requirements of the Alpine region, paying particular attention to waste avoidance.

- (3) The Contracting Parties shall agree upon Protocols laying down details for the implementation of this Convention.

Article 3

Research and systematic monitoring

In the areas specified in Article 2, the Contracting Parties shall agree to:

- (a) cooperate in the carrying out of research activities and scientific assessments;
- (b) develop joint or complementary systematic monitoring programmes;
- (c) harmonize research, monitoring and related data-acquisition activities.

Article 4

Legal, scientific, economic and technical cooperation

- (1) The Contracting Parties shall facilitate and promote the exchange of legal, scientific, economic and technical information relevant to this Convention.

- (2) The Contracting Parties shall inform each other of planned legal or economic measures which are expected to have particular effects on the Alpine region or parts thereof, in order to give the utmost consideration to cross-border and regional requirements.
- (3) The Contracting Parties shall cooperate with international governmental and non-governmental organizations, where necessary, to ensure the effective implementation of the Convention and the Protocols to which they are a Contracting Party.
- (4) The Contracting Parties shall ensure that the public are regularly kept informed in an appropriate manner about the results of research, monitoring and action taken.
- (5) The Contracting Parties' obligations under this Convention with regard to the provision of information shall be subject to compliance with national laws on confidentiality. Information designated confidential shall be treated as such.

Article 5

Conference of Contracting Parties

- (1) Regular meetings of the Conference of Contracting Parties shall be held to discuss the common concerns of and cooperation between the Contracting Parties.

The first meeting of the Alpine Conference shall be convened a year after the entry into force of this Convention at the latest by a Contracting Party to be determined by agreement.

- (2) Subsequently, ordinary meetings of the Conference shall normally be convened every two years by the Contracting Party holding the Chair. The Chairmanship and location shall change after each ordinary meeting of the Conference. Both shall be determined by the Alpine Conference.
- (3) The Contracting Party holding the Chair shall propose the agenda for the meeting of the Conference. Each Contracting Party shall have the right to have other items included on the agenda.
- (4) The Contracting Parties shall forward to the Conference information on the measures which they have taken in implementation of the Convention and the Protocols to which they are a Contracting Party, subject to national laws on confidentiality.
- (5) The United Nations, its specialized agencies, the Council of Europe and all European countries may take part in the meetings of the Conference as observers. The same applies to cross-border associations of Alpine territorial authorities. In addition, relevant international non-governmental organizations may be admitted to the Conference as observers.
- (6) Extraordinary meetings of the Conference shall be held by consensus or if a written application has been made to the presiding Contracting Party by one third of the Contracting Parties between two ordinary meetings.

Article 6
Functions of the Conference

At its meetings, the Conference shall examine the implementation of the Convention and Protocols, together with Annexes, and, in particular, shall carry out the following functions at its meetings:

- (a) It shall adopt amendments to the Convention under the procedure laid down in Article 10.
- (b) It shall adopt Protocols and their Annexes and amendments thereto under the procedure laid down in Article 11.
- (c) It shall adopt its rules of procedure.
- (d) It shall make the necessary financial decisions.
- (e) It shall approve the creation of Working Groups deemed necessary for the implementation of the Convention.
- (f) It shall take note of assessments of scientific information.

- (g) It shall decide or recommend measures to achieve the objectives laid down in Articles 3 and 4, shall determine the nature, subject and date of submission of the information to be submitted in accordance with Article 5(4), and shall take note of this information, together with the reports submitted by the Working Groups.
- (h) It shall be responsible for carrying out essential Secretariat functions.

Article 7

Decision-making within the Conference

- (1) The Conference shall reach its decisions unanimously unless otherwise determined below. If all efforts to achieve unanimity with regard to the functions referred to in Article 6(c), (f) and (g) have failed and the Chairman specifically establishes this fact, the decision shall be reached by a three-quarters majority of the Contracting Parties present and voting at the meeting.
- (2) Each Contracting Party shall have a vote at the Conference. Within the areas of its competence, the European Economic Community shall exercise its right to vote with a number of votes equal to the number of its Member States which are Contracting Parties to this Convention; the European Economic Community shall not exercise its right to vote in cases where the Member States exercise theirs.

Article 8
Standing Committee

- (1) A Conference Standing Committee consisting of delegates of the Contracting Parties shall be set up as an executive body.
- (2) Signatory States which have not yet ratified the Convention shall have observer status at Standing Committee meetings. In addition, any Alpine State which has not yet signed this Convention may be given this status on demand.
- (3) The Standing Committee shall adopt its rules of procedure.
- (4) In addition, the Standing Committee shall decide on the procedures for any participation of representatives of governmental and/or non-governmental organizations at its meetings.
- (5) The Contracting Party presiding over the Conference shall appoint the Chairman of the Standing Committee.
- (6) The Standing Committee shall carry out the following functions in particular:

- (a) It shall analyse the information submitted by the Contracting Parties in accordance with Article 5(4) and report to the Alpine Conference;
- (b) it shall collect and assess documents with regard to the implementation of the Convention and Protocols, together with Annexes, and shall submit them to the Conference for examination in accordance with Article 6;
- (c) It shall inform the Alpine Conference about the implementation of the Conference's decisions;
- (d) It shall prepare the programme for meetings of the Conference and may propose items for the agenda as well as other measures relating to the implementation of the Convention and its Protocols;
- (e) It shall appoint Working Groups to formulate Protocols and recommendations, in accordance with Article 6(e) and coordinate their activities;
- (f) It shall examine and harmonize the contents of draft Protocols from an overall point of view and propose them to the Conference;
- (g) It shall propose measures and recommendations for the achievement of the objectives contained in the Convention and its Protocols to the Conference;
- (7) Decision-making within the Standing Committee shall take place in accordance with the provisions laid down in Article 7.

Article 9
Secretariat

The Conference may decide unanimously to set up a permanent Secretariat.

Article 10
Amendments to the Convention

Any Contracting Party may submit proposals for amendments to this Convention to the Contracting Party presiding over the Conference. Such proposals shall be communicated to the Contracting Parties and signatory States by the Contracting Party presiding over the Conference at least six months before the Conference meeting at which they are to be considered. Amendments to the Convention shall come into force in accordance with Article 12(2), (3) and (4).

Article 11
Protocols and amendment thereto

- (1) Draft Protocols within the meaning of Article 2(3) shall be communicated to the Contracting Parties and signatory States by the Contracting Party presiding over the Conference at least six months before the Conference meeting at which they are to be considered.

- (2) The Protocols adopted by the Conference shall be signed at the Conference meetings or subsequently at the depositary. They shall be applicable to those Contracting Parties which have ratified, accepted or approved them. In order for a Protocol to come into force at least three ratifications, acceptances or approvals shall be necessary. The relevant documents shall be deposited with the depositary, the Republic of Austria.
- (3) Unless otherwise provided for in the Protocol, the entry into force and denunciation of a Protocol shall be governed by Articles 10, 13 and 14.
- (4) In the case of amendments to Protocols, paragraphs (1)-(3) shall apply *mutatis mutandis*.

Article 12

Signature and Ratification

- (1) This Convention shall be open for signature from 7 November 1991 in the Republic of Austria as depositary.
- (2) The Convention shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the depositary.
- (3) The Convention shall enter into force 3 months after the date on which three States have expressed their consent to be bound by the Convention, in accordance with the provisions of paragraph (2).

- (4) In the case of any signatory State which subsequently expresses its consent to be bound by the Convention in accordance with the provisions of paragraph (2), the Convention shall enter into force 3 months after the date of deposit of the instrument of ratification, acceptance or approval.

Article 13 **Denunciation**

- (1) Any of the Contracting Parties may at any time denounce this Convention by means of a notification addressed to the depositary.
- (2) Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notification by the depositary.

Article 14 **Notifications**

The depositary shall notify each of the Contracting Parties and signatory States of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;

- (c) any date of entry into force of the Convention, in accordance with Article 12;
- (d) any declaration made in accordance with Article 1(2) and (3);
- (e) any notification made under Article 13 and the date on which denunciation becomes effective.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Salzburg on 7 November 1991 in the German, French, Italian and Slovene languages, each text being equally binding; the original text shall be deposited in the Austrian State archives. The depositary shall send a certified copy to each of the signatory States.

For the Federal Republic of Germany:

For the French Republic:

For the Italian Republic:

For the Republic of Slovenia;

For the Principality of Liechtenstein:

For the Republic of Austria:

For the Swiss Confederation:

For the European Economic Community:

ISSN 0254-1475

COM(94) 336 final

DOCUMENTS

EN

14

Catalogue number : CB-CO-94-352-EN-C

ISBN 92-77-71931-1
