

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(92) 1363 final

Brussels, 14 July 1992

Proposal for a

COUNCIL DECISION

authorizing the Member States to negotiate and
conclude a convention concerning matters which
fall within the sphere of competence of the Community

(presented by the Commission)

EXPLANATORY MEMORANDUM

The purpose of this proposal is to authorize the Member States to negotiate certain provisions of the future Convention on chemical weapons (the Geneva Convention) that concern matters falling within the sphere of competence of the Community and to conclude that part of the Convention.

It has become apparent that Articles VI and XI of the Convention concern, inter alia, trade in chemical substances, which falls within the scope of the commercial policy of the Community.

This has therefore raised the question of the participation of the Community, per se, in the Geneva negotiations. In view, however, of the particularly advanced stage that the negotiations have now reached, it does not appear advisable to request participation by the Community, as a new contracting party, in the said negotiations since that would, inter alia, be certain to delay matters.

This proposal for a Decision makes it clear that the obligations of the Member States under the Geneva Convention must remain compatible with those inherent in their membership of the Community.

In these circumstances, it appears appropriate to delegate powers to the Member States, by this Decision, in order to ensure compliance with the provisions of the Treaty.

PROPOSAL FOR A COUNCIL DECISION

of

authorizing the Member States to negotiate and
conclude a convention concerning matters which
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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas the Community and its Member States affirmed the importance they
attach to the conclusion of the Geneva Convention on chemical weapons in
the Luxembourg Declaration;

Whereas in the course of the negotiations at the Geneva Conference on
chemical weapons it became apparent that certain provisions of Articles VI
and XI of the said Convention concerning, notably, trade in chemical
substances, their use and the control measures relating to such trade and
to the manufacture of such substances fall within the sphere of competence
of the Community; whereas the Member States should, accordingly, be
authorized to negotiate and conclude the parts of the Convention that fall
within the said sphere of competence;

Whereas the urgent need to conclude the said Convention and the advanced
stage that the negotiations have reached make participation by the
Community extremely difficult;

Whereas it is necessary to ensure compliance with the rules of the Treaty and, in particular, those concerning the establishment of the internal market, in accordance with Article 8a of the Treaty; whereas a clause should, accordingly, be included in the Convention which allows the free movement of goods within the territory of the Community to be maintained, if necessary by way of derogation from the general rules of the Convention, so as to preclude controls on trade within the Community in the products covered by the said Convention;

Whereas all the Member States have expressed their intention of concluding the said Convention;

Whereas the implementation of controls at the Community's external frontier will need to be harmonized,

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States are hereby authorized, in connection with the Geneva Conference on chemical weapons, to negotiate and conclude the provisions of the Convention which fall within the sphere of competence of the Community.

2. The Member States shall ensure that, with due regard to the Treaty, trade in chemical substances, as referred to in Articles VI and XI of the Convention, is conducted between them without any restriction. To that end they shall, if necessary, require the inclusion of a clause that allows them to ensure the free movement of the products concerned within the Community and which does not preclude the introduction of harmonized control measures in relation to third countries.

Article 2

This Decision is addressed to the Member States.

Done at Brussels,

For the Council