

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 2 final

Brussels, 12 January 1994

Proposal for a

COUNCIL DECISION

on the exercise of the Community's external competence at
international labour conferences in cases falling within the joint competence
of the Community and its Member States

(presented by the Commission)

EXPLANATORY MEMORANDUM

The structure and organisation of the International Labour Organisation (ILO) are very specific. The ILO organises an annual International Labour Conference, and every year the preparation of international labour conventions is on the agenda. The national delegations to the Conference are tripartite in structure, i.e. they consist of government, employers' and workers' representatives. The ILO Constitution gives each representative the right to vote individually on all matters discussed by the Conference. This means that the employers' and workers' representatives act completely independently of the government representatives. The Standing Orders of the Conference lay down the procedures for the preparation of international labour conventions, procedures which include consultation of employers and workers at the various stages.

It is essential for the proposed solutions to the problem of the exercising of the Community's external competence at the International Labour Conference to be tailored to the specific features of this organisation. The Commission draws attention to the fact that these solutions must be regarded as being specific to the case in point. Consequently, the procedures set out below cannot serve as a precedent for matters relating to the external competence of the Community in other international contexts.

1. INTRODUCTION

- 1.1 This proposal has been drawn up by the Commission at the Council's request, first expressed in its Decision of 30 November 1989 (see section 2.4. below). On that occasion the Council spoke of the need to adopt provisions concerning the exercise of the external competences of the Community and its Member States in cases of joint competence. The request was again voiced by the Council in May 1993 during discussion of the recommendation for a Council decision concerning negotiations at the 1993 International Labour Conference (SEC(93) 766 final). It was in that document that the Commission stated its intention to refer to the Council at a later date the general problem of EC/ILO relations as regards the exercise of joint competences, taking particular account of the ILO's specific characteristics.

1.2 In its Opinion No 2/91 of 19 March 1993¹ (conclusion of ILO Convention No 170) the Court called on the Community institutions and the Member States to take all the necessary measures to ensure close cooperation between the latter and the Community institutions in the process of negotiation, conclusion and fulfilment of ILO conventions falling within the joint competence of the Community and its Member States.

1.3 In drawing up its proposals the Commission wished to take account of a number of elements which can be summarised as follows:

- The need to affirm European identity at world level, bearing in mind the *acquis communautaire* in the social field
- The need to respect the specific institutional characteristics of the ILO; the intention is not to have the ILO Constitution or other internal rules governing that organisation's bodies amended. The Commission also undertakes to fully respect the independence of the two sides of industry, as provided for in the ILO Constitution. The Commission is also anxious to preserve the principle of consulting the two sides of industry as laid down by ILO Convention No 144.
- Reinforcement of the good cooperation between the Community and the ILO bodies. In this context account must be taken of the ILO's role as such, especially the creation of rules underpinning social progress at world level which are capable of being ratified by a very large number of countries. There is also a need to respect the sound operation of the ILO by adhering to its procedures and avoiding an excessive "bloc effect" at International Labour Conferences.

2. OVERALL FRAMEWORK

2.1 The International Labour Organisation is a specialised institution of the United Nations. The Community enjoys the status of observer within the ILO's bodies.

The International Labour Organisation holds an International Labour Conference every year. The negotiation and adoption of international labour conventions form part of the conference agenda. The presence and participation of the Community at such conferences, when the subjects to which the draft conventions and recommendations relate fall within areas already covered by binding Community acts, have been a source of discussion as regards Community representation at the Conference.

The problems linked to the exercise of external competence by the Community crop up in various international bodies. As regards the International Labour Conference, they are mainly connected with the Conference's specific structures as reflected in the ILO Constitution and the Standing Orders of the Conference which apply to all annual conferences.

¹ OJ C 109 of 19.04.1993, p. 1.

- 2.2 The Commission has already approached the Council several times on the question of the exercise of the Community's external competence at the International Labour Conference, either in general terms or in connection with negotiations concerning certain conventions and recommendations.

The issue of Community participation in conventions concluded within the ILO framework has been around since 1977. It first arose during negotiation of Convention No 153 concerning hours of work and rest periods in road transport (1977 to 1979).

- 2.3 The problem arose again in 1983 during preparation of Convention No 162 concerning safety in the use of asbestos which - in the Commission's opinion - fell within the exclusive competence of the Community.

Since the Council took a different view, the Commission started an action for annulment before the Court of Justice (Case 217/86) but subsequently withdrew it after having obtained the Council's adoption on 22 December 1986 of a decision of general scope on the arrangements governing Community participation in negotiations on ILO conventions falling within the exclusive competence of the Community.

It has not been possible to implement all aspects of that decision, which provoked numerous reactions, in particular from the two sides of industry.

The lack of agreement between the Council and the Commission on the exclusive nature of Community competence in connection with conventions negotiated at the International Labour Conference since 1987 has hindered full application of the said decision.

- 2.4 The agenda of the June 1988 International Labour Conference included a draft convention and recommendation concerning safety in the use of chemicals at work. However, during the phase of replying to the questionnaire submitted by the ILO in preparing the convention, it became clear that differences of opinion existed between the Commission and the Council on the exercise of external competence by the Community.

On 30 November 1989 the Council adopted a decision which authorised the Commission to present the Community point of view during the negotiations in question, in close consultation with the Member States. But that decision left entirely unresolved the issue of the exclusive nature of such competence, which gave rise to serious disagreements. Finally, the Commission requested the Court of Justice to give its opinion on the compatibility with the EEC Treaty of the abovementioned convention (No 170), and, in particular, on the Community's competence to conclude that convention and the consequences which this would have for the Member States. It should be noted here that several Member States had submitted the convention in question to their national authorities even before the Court of Justice had delivered its opinion.

In its Opinion No 2/91 of 19 March 1993 the Court stated: "The conclusion of ILO Convention No 170 is a matter which falls within the joint competence of the Member States and the Community".

- 2.5 The agenda for the International Labour Conferences of 1992 and 1993 featured a draft convention and recommendation on the prevention of major industrial accidents.

On 25 February 1992 the Council authorised the Commission to send a Community reply to the questionnaire disseminated by the International Labour Office concerning major industrial accidents, but also asked the Commission to point out that the Council believed the matters covered by the questionnaire fell within the sphere of concurrent competence.

At the International Labour Conferences of 1992 and 1993 a pragmatic approach was adopted on representation of the Community. The Conference adopted the convention on major industrial accidents in June 1993. It must now be submitted to the competent authorities.

- 2.6 The agenda for the International Labour Conference of June 1994 includes negotiation of a convention and recommendation concerning health and safety in mines. The International Labour Office has distributed a related questionnaire in order to prepare for the conference. Most of the aspects covered by it fall within the joint competence of the Community and the Member States due to the existence of minimum requirements in Community law covering this field.

On 1 September 1993 the Commission forwarded a communication to the Council inviting it to adopt the proposed replies drawn up by the Commission and to take a decision on communication of the replies to the International Labour Office (Doc(93) 1291 final). The Council has not yet been able to take a decision.

3. COURT OF JUSTICE OPINION NO 2/91

In its Opinion No 2/91 of 19 March 1993 the Court held:

"The conclusion of ILO Convention No 170 is a matter which falls within the joint competence of the Member States and the Community".

The Court noted, to begin with, that "the request for an opinion does not concern the Community's capacity, on the international plane, to enter into a convention drawn up under the auspices of the ILO but relates to the scope, judged solely by reference to the rules of Community law, of the competence of the Community and the Member States within the area covered by Convention No 170. It is not for the Court to assess any obstacles which the Community may encounter in the exercise of its competence because of constitutional rules of the ILO."

It then ruled out the possibility of exclusive external competence being founded on internal rules constituting minimum requirements, at least when the international standard covering the same matter is also a minimum requirement. However, the Court confirmed the possibility of exclusive Community competence in cases where the common rules are not set down in the form of minimum requirements.

The Court also stressed that "when it appears that the subject-matter of an agreement or contract falls in part within the competence of the Community and in part within that of the Member States, it is important to ensure that there is a close association between the institutions of the Community and the Member States both in the process of negotiation and conclusion and in the fulfilment of the obligations entered into. This duty of cooperation, to which attention was drawn in the context of the EAEC Treaty, must also apply in the context of the EEC Treaty since it results from the

requirement of unity in the international representation of the Community."

"In this case, cooperation between the Community and the Member States is all the more necessary in view of the fact that the former cannot, as international law stands at present, itself conclude an ILO convention and must do so through the medium of the Member States."

"It is therefore for the Community institutions and the Member States to take all the measures necessary so as best to ensure such cooperation both in the procedure of submission to the competent authority and ratification of Convention No 170 and in the implementation of commitments resulting from that Convention".

4. NEED TO ESTABLISH A PROCEDURE FOR NEGOTIATION AND CONCLUSION OF CONVENTIONS FALLING WITHIN THE SPHERE OF CONCURRENT COMPETENCE

4.1 In the light of past experience and taking the Court's reasoning into account, it is expected that, where Community competence is involved, most of the ILO's future conventions will fall within the sphere of joint competence shared between the Community and its Member States. This will be the case whenever the topics under negotiation are covered in part by binding Community acts and/or such acts are set out in the form of minimum requirements, taking account of the fact that the ILO Constitution authorises the adoption by members of measures more stringent than those laid down in ILO conventions and recommendations. Therefore, it is most likely that the proportion of conventions falling within the exclusive competence of the Community will be very small compared to those falling within competence shared between the Community and its Member States.

It should be recalled that it is the ILO's Governing Body which fixes the agenda of the International Labour Conference.

Of course, some conventions may fall within national competence alone, but in the past this has not given rise to any problems. Community coordination meetings have been organised in Geneva, thus allowing the Member States to state their respective positions and making it possible to try to find points of convergence.

Furthermore, the Council Decision of 30 November 1989 (section 2.4. above) says that the Decision of 22 December 1986, which covers exclusive competence only, should be supplemented with provisions concerning cases of joint competence of the Community and the Member States, and provisions designed to prevent difficulties arising from the ILO's Constitution and practices.

4.2 In its Opinion No 2/91, the Court of Justice said that "in Ruling 1/78** the Court pointed out that when it appears that the subject-matter of an agreement or contract falls in part within the competence of the Community and in part within that of the Member States, it is important to ensure that there is a close association between the institutions of the Community and the Member States both in the process of negotiation and conclusion and in the fulfilment of the obligations entered into. This duty of cooperation, to which attention was drawn in the context of the EAEC Treaty, must also apply in the context of the EEC Treaty since it results from the requirement

** [1978] ECR 2151, (this ruling no 1/78 was delivered pursuant to Article 103 of the EAEC Treaty)

of unity in the international representation of the Community."

- 4.3 The Commission wishes to propose to the Council appropriate procedures adapted to the ILO's specific features in order to help ensure that the Conference takes place on a satisfactory and constructive basis with regard to the representation of the Community and of its Member States.

Therefore, this proposal covers general arrangements to be used as a guide in all the phases of the procedure for negotiating and applying international labour standards, while retaining a certain amount of flexibility in the way the arrangements are to be implemented, depending on the particular subjects under negotiation.

- 4.4 The Commission believes that it has an important role to play, given its institutional functions and its expertise in the matters discussed at the Conference. It is vital that the texts negotiated and adopted in international bodies are not incompatible with Community law in order to prevent any subsequent problems from arising.

- 4.5 It must be stressed that the Council, when drawing up guidelines for the negotiations, must define the appropriate bases for such negotiations, paying heed to the fact that a) ILO standards apply throughout the world and must be capable of being ratified and applied by the largest number of its member countries and b) such standards must not be incompatible with Community law.

- 4.6 As the Commission has affirmed on several occasions, the procedures laid down for the various phases must take account of the ILO's tripartite structure and the independence of the two sides of industry, which the Commission undertakes to respect, of course.

In accordance with the provisions of the rules governing the ILO Conference and Convention No 144 concerning tripartite consultations, the two sides of industry must be consulted by the Member States at different stages of the procedure: 1) on the government replies to the questionnaires addressed to them, 2) on the government comments in respect of the draft texts for discussion at the Conference, and 3) on the proposals made to the competent authorities.

The Commission has always acknowledged that consultations with the two sides of industry must be conducted in order to respect the requirements of the ILO Constitution. The consultation of the two sides of industry at European level, which the Commission would like to initiate, will have to be the subject of an exchange of views with the parties concerned in order to find suitable formulas. Whatever happens, such consultations will not be a substitute for the consultations conducted at national level by the Member States. They should be held in parallel.

5. PROPOSED PROCEDURES TO BE FOLLOWED

The approach adopted here takes account of the ILO's double-reading (i.e. discussion) procedures and the practices already applied during negotiation of previous conventions.

5.1 Formulation of Community replies to International Labour Office questionnaires

In accordance with Article 39(1) of the Standing Orders of the International Labour Conference, not less than 12 months before the opening of a session of the Conference the International Labour Office must communicate to the governments a questionnaire on the subject to be dealt with by the session concerned. The replies must reach the International Labour Office not less than eight months before the opening of the relevant session of the Conference. The four-month period provided for preparation of the replies can be extended to five months in exceptional circumstances.

The replies must be drawn up in close cooperation between the Community institutions and the Member States, paying particular heed to the obligation to consult employers' and workers' organisations stemming from Convention No 144 (Article 5(a)). Account must be taken of the fact that this four-month period is extremely short for drawing up a coordinated reply at Community level involving the necessary consultation with the two sides of industry.

In cases involving joint competence, the Community and the Member States must do their best to formulate joint replies to be adopted by the Council on a proposal from the Commission. In this procedure the Member States will consult their two sides of industry on the proposed Community reply drawn up by the Commission and let the Commission know the outcome of those consultations. This means, of course, that the Commission will have to send out a draft Community reply very soon after publication of the questionnaire so as to allow sufficient time for such consultations with the two sides of industry and the formulation of a reply.

Furthermore, Member States which consider it necessary to supplement the replies in respect of aspects not dealt with in the proposal for a reply, will send their drafts to the Commission for the purposes of Community coordination within the Council. It is vital to maintain consistency between the Community's replies and those of the Member States.

The Community reply adopted by the Council will be communicated to the International Labour Office by the Commission. The Commission will inform the International Labour Office that the field in question falls within the joint competence of the Community and its Member States, and any Member State sending a reply will do the same.

5.2 Preparation of the first reading of a draft convention and recommendation at the Conference in June

On the basis of the report drawn up by the International Labour Office, the Commission will submit a recommendation for a decision to the Council, which will authorise the Community to take part in the negotiations through the medium of the

Member States and also provide guidelines to this end.

On the basis of these guidelines the Commission will draw up Community positions in consultation with a special committee appointed by the Council to assist it, taking account of the role which the Community must play internationally in promoting social legislation applicable at world level.

As regards matters falling partly within Community competence and partly within that of the Member States, it is vital to ensure - via coordination within the Council bodies in Brussels and then on the spot - that there is close cooperation between the Member States and the Community institutions during the negotiation process.

The meetings of the technical committees at the International Labour Conference will be informed of the Community's point of view by the Presidency or by the Commission representative, depending on what is agreed during the Community coordination meetings given the nature of the aspects involved.

In accordance with the Conference's Standing Orders, Community amendments and sub-amendments will be presented by the Presidency on behalf of the government members of the European Community Member States in line with the procedure and pragmatic approach adopted at the 1992 and 1993 Conferences, thus allowing the Commission to present the background to and reasoning behind the Community position. It is not ruled out, however, that the coordination meeting decides that the Community point of view be given by the representative of a Member State by virtue of his specific expertise in the matter discussed.

If need be, the government experts will make a contribution at the technical committee meetings in support of the Community position, following consultations for the purposes of Community coordination.

During voting the representatives of the Member States will vote in accordance with the joint position.

If difficulties arise which cannot be settled on the spot, the Commission or a Member State can immediately bring the matter before the Council bodies in line with the normal procedures.

5.3 Comments on the conclusions drawn from the first reading

After the first reading the International Labour Office prepares one or more convention or recommendation texts and communicates them to the governments so that they reach them not later than two months from the closing of the session of the Conference, asking them to state within three months, after consulting the most representative organisations of employers and workers, whether they have any amendments to suggest or comments to make (see Article 39(6) of the Standing Orders of the International Labour Conference).

The same procedures as those described in 5.1 above will apply *mutatis mutandis* to formulation of the Community reply to the proposals.

5.4 Second reading: negotiation and adoption of the convention and recommendation

Here, too, the same procedures as described in 5.2 above will apply *mutatis mutandis*. The Commission will request modified negotiation guidelines from the Council if developments at the Conference call for changes to the guidelines.

The Presidency may address the plenary session of the Conference on behalf of the government members of the Community Member States and explain the joint position. The government delegates will vote in accordance with the joint position.

5.5 Submission to the competent authority and conclusion of the convention

5.5.1. ILO rules applicable in this context

Under the ILO Constitution, when an ILO Conference has adopted an international convention or recommendation, the International Labour Office communicates the instruments in question to all ILO member countries for ratification or - in the case of a recommendation - for their consideration (ILO Constitution, Article 19(5)(a) and (6)(a)).

Each member country undertakes that it will, within the period of one year from the closing of the session of the Conference (the deadline can be extended to 18 months in exceptional circumstances), bring the instruments in question "before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action" (ILO Constitution, Article 19(5)(b) and (6)(b)).

Member countries must inform the Director-General of the International Labour Office of the measures taken to bring the said instruments before "the competent authority", with particulars of the authority regarded as competent, and of the action taken by it (ILO Constitution, Article 19(5)(c) and (6)(c)).

The competent authority means the authority with the power to legislate on the issues covered by the convention. The obligation imposed on member countries to submit the conventions and recommendations to that authority include the obligation to make clear and reasoned proposals concerning the subsequent action to be taken with regard to such instruments.

In accordance with Article 5(1) of Convention No 144, the employers' and workers' organisations must be consulted.

A country obtaining the consent of the competent authority must communicate the formal ratification of the convention to the Director-General of the International Labour Office and take such action as may be necessary to make effective the provisions of the said convention (ILO Constitution, Article 19(5)(d)).

5.5.2. Proposed procedure to be followed in cases of joint competence

As for the stage entailing submission to the competent authority, in cases involving a convention or recommendation falling within joint competence, the Member States must send a letter to the Director-General of the International Labour Office informing him that, by virtue of the Treaty establishing the European Community and the rules adopted governing application thereof, the competent authorities, under whose

responsibility the convention and recommendation fall, are the competent institutions of the Community together with the competent national institutions in accordance with the Community procedure applicable in this context.

Dispatch of this letter does not prejudice the action taken on the submission.

Furthermore, as regards the content of the reasoned proposals which must be submitted to the competent authority before a decision is made on what action to take on the convention or recommendation, it must be noted that, in order to respect Convention No 144, the Member States must consult their two sides of industry and communicate the outcome of those consultations to the Commission.

As regards conclusion proper, it should be noted that the Court of Justice has stated that the Community may not, as international law stands at present, itself conclude an ILO convention and must do so through the medium of the Member States. These can do this only after the Council has given its approval and in a coordinated manner, such conclusion then being valid for the Community and for themselves.

It is the responsibility of the Council, on a proposal from the Commission and after consultation of the European Parliament in accordance with Article 228 of the EC Treaty and of the two sides of industry, to decide whether the convention concerned should be concluded by the Community and its Member States and subsequently, as the case may be, to invite the Member States to conclude the convention on behalf of the Community as well.

Once the Council has made its decision, it is up to the Member States to conclude the convention in accordance with their national procedures. When the time comes, the Member States will communicate their acceptance to the Director-General of the International Labour Office, indicating that such acceptance is valid for the Community as well. They will send a copy of the ratification instrument to the Commission.

If necessary, the Commission will submit to the Council a proposal concerning a Community instrument to enact the convention into the Community's legal system.

**PROPOSAL FOR A COUNCIL DECISION ON THE EXERCISE
OF THE COMMUNITY'S EXTERNAL COMPETENCE AT
INTERNATIONAL LABOUR CONFERENCES IN CASES
FALLING WITHIN THE JOINT COMPETENCE OF THE
COMMUNITY AND ITS MEMBER STATES**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the proposal from the Commission,

Whereas the Council decided on 30 November 1989 that it is necessary to supplement the Decision of 22 December 1986 on the exercise of the Community's exclusive competence at the ILO with provisions concerning cases of joint competence of the Community and the Member States, and provisions designed to prevent difficulties arising from the ILO's constitution or practices;

Whereas in its Opinion No 2/91 of 19 March 1993^{*} the Court of Justice held that it is important to ensure that there is a close association between the institutions of the Community and the Member States in the process of negotiation and conclusion of conventions falling within joint competence and in the fulfilment of the obligations entered into;

Whereas Article 15 of the Treaty establishing a Single Council and a Single Commission of the European Communities stipulates that the Council and the Commission shall consult each other and shall settle by common accord their methods of cooperation.

^{*} OJ C 109 of 19.04.1993, p. 1.

HAS DECIDED AS FOLLOWS

First and Only Article

The procedures set out in the Annex to this Decision shall be followed by the Community institutions and the Member States in the process of preparing, concluding and applying International Labour Organisation conventions falling within the joint competence of the Community and its Member States.

Done at,

For the Council

ANNEX

1. FORMULATION OF THE REPLY TO THE INTERNATIONAL LABOUR OFFICE QUESTIONNAIRE

In cases involving joint competence, the Community and the Member States will formulate joint replies to be adopted by the Council on a proposal from the Commission. In this procedure the Member States will consult their two sides of industry on the proposed Community reply drawn up by the Commission and let the Commission know the outcome of those consultations. This means, of course, that the Commission will have to send out a draft Community reply very soon after publication of the questionnaire so as to allow sufficient time for such consultations with the two sides of industry and the formulation of a reply.

Furthermore, Member States which consider it necessary to supplement the replies in respect of aspects not dealt with in the proposal for a reply, will send their drafts to the Commission for the purposes of Community coordination within the Council.

The Community reply adopted by the Council will be communicated to the International Labour Office by the Commission. The Commission will inform the International Labour Office that the field in question falls within the joint competence of the Community and its Member States, and any Member State sending a reply will do the same.

2. PREPARATION OF THE FIRST READING OF A DRAFT CONVENTION AND RECOMMENDATION AT THE CONFERENCE IN JUNE

On the basis of the report drawn up by the International Labour Office, the Commission will submit a recommendation for a decision to the Council, which will authorise the Community to take part in the negotiations through the medium of the Member States and also provide guidelines to this end.

On the basis of these guidelines the Commission will draw up the Community positions in consultation with a special committee appointed by the Council to assist it, taking account of the role which the Community must play internationally in promoting social legislation applicable at world level.

As regards matters falling partly within Community competence and partly within that of the Member States, it is vital to ensure - via coordination within the Council bodies in Brussels and then on the spot - that there is close cooperation between the Member States and the Community institutions during the negotiation process.

The meetings of the technical committees at the International Labour Conference will be informed of the Community's point of view by the Presidency or by the Commission representative, depending on what is agreed during the Community coordination meetings given the nature of the aspects involved. In accordance with

the Conference's Standing Orders, Community amendments and sub-amendments will be presented by the Presidency on behalf of the government members of the European Community Member States in line with the procedure and pragmatic approach adopted at the 1992 and 1993 Conferences, thus allowing the Commission representative to present the background to and reasoning behind the Community position. It is not ruled out, however, that the coordination meeting decides that the Community point of view be given by the representative of a Member State by virtue of his specific expertise in the matter discussed.

If need be, the government experts will make a contribution at the technical committee meetings in support of the Community position, following consultations for the purposes of Community coordination.

During voting the representatives of the Member States will vote in accordance with the joint position.

If difficulties arise which cannot be settled on the spot, the Commission or a Member State can immediately bring the matter before the Council bodies in line with the normal procedures.

3. COMMENTS ON THE CONCLUSIONS DRAWN FROM THE FIRST READING

The same procedures as those described in 1 above will apply *mutatis mutandis*.

4. SECOND READING: NEGOTIATION AND ADOPTION OF THE CONVENTION AND RECOMMENDATION

The same procedures as described in 2 above will apply *mutatis mutandis*.

The Commission will request modified negotiation guidelines from the Council if developments at the Conference call for changes to the guidelines.

The Presidency may address the plenary session of the Conference on behalf of the government members of the Community Member States and explain the joint position. The government delegates will vote on the basis of the joint position.

5. SUBMISSION TO THE COMPETENT AUTHORITY AND CONCLUSION OF THE CONVENTION

As for the stage entailing submission to the competent authority, in cases involving a convention or recommendation falling within joint competence, the Member States must send a letter to the Director-General of the International Labour Office informing him that, by virtue of the Treaty establishing the European Community and the rules adopted governing application thereof, the competent authorities, under whose responsibility the convention and recommendation fall, are the competent institutions of the Community together with the competent national institutions in accordance with the Community procedure applicable in this context.

Dispatch of this letter does not prejudice the action taken on the submission.

Furthermore, as regards the content of the reasoned proposals which must be submitted to the competent authority before a decision is made on what action to take on the convention or recommendation, it must be noted that, in order to respect Convention No 144, the Member States must consult their two sides of industry and communicate the outcome of those consultations to the Commission.

It is the responsibility of the Council, on a proposal from the Commission and after consultation of the European Parliament in accordance with Article 228 of the EC Treaty and of the two sides of industry, to decide whether the convention concerned should be concluded by the Community and its Member States and subsequently, as the case may be, to invite the Member States to conclude the convention on behalf of the Community as well.

Once the Council has made its decision, it is up to the Member States to conclude the convention in accordance with their national procedures. When the time comes, the Member States will communicate their acceptance to the Director-General of the International Labour Office, indicating that such acceptance is valid for the Community as well. They will send a copy of the ratification instrument to the Commission.

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