

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0290/2002

11 September 2002

REPORT

on the proposal for a Council decision approving, on behalf of the European Community, the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade (COM(2001) 802 – C5-0095/2002 – 2002/0030(CNS))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Hans Blokland

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 19 February 2002 the Council consulted Parliament, pursuant to Article 300(3), first subparagraph of the EC Treaty on the proposal for a Council decision approving, on behalf of the European Community, the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade (COM(2001) 802 – 2002/0030(CNS)).

At the sitting of 11 March 2002 the President of Parliament announced that he had referred this proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (C5-0095/2002).

The Committee on the Environment, Public Health and Consumer Policy had appointed Hans Blokland rapporteur at its meeting of 19 February 2002.

At its meeting of 27 March 2002 the committee decided to request the opinion of the Committee on Legal Affairs and the Internal Market on the proposal's legal basis under Rule 63(2).

By letter of 23 May 2002 the Council informed Parliament of its intention to replace Article 133 of the EC Treaty with Article 175(1) of the EC Treaty as legal basis of the proposal, as well as of the procedural implications of this modification.

The Committee considered the Commission proposal and the draft report at its meetings of 9 July 2002 and 10 September 2002.

At the last meeting it adopted the draft legislative resolution by 46 votes to 2, with no abstentions.

The following were present for the vote: Caroline F. Jackson chairman; Mauro Nobilia and Alexander de Roo, vice-chairmen; Hans Blokland, rapporteur; María del Pilar Ayuso González, Jean-Louis Bernié, David Robert Bowe, John Bowis, Martin Callanan, Dorette Corbey, Chris Davies, Avril Doyle, Jillian Evans (for Hiltrud Breyer), Anne Ferreira, Marialiese Flemming, Karl-Heinz Florenz, Cristina García-Orcóyen Tormo, Laura González Álvarez, Françoise Grossetête, Jutta D. Haug (for Anneli Hulthén), Piia-Noora Kauppi (for Per-Arne Arvidsson), Christa Klač, Eija-Riitta Anneli Korhola, Bernd Lange, Paul A.A.J.G. Lannoye (for Marie Anne Isler Béguin), Peter Liese, Rolf Linkohr (for Torben Lund), Jules Maaten, Minerva Melpomeni Malliori, Jorge Moreira da Silva, Emilia Franziska Müller, Rosemarie Müller, Giuseppe Nisticò, Fernando Pérez Royo (for Riitta Myller), Encarnación Redondo Jiménez, Frédérique Ries, Dagmar Roth-Behrendt, Guido Sacconi, Karin Scheele, Inger Schörling, Bart Staes (for Patricia McKenna), Dirk Sterckx (for Marit Paulsen), Catherine Stihler, Charles Tannock (for Raffaele Costa), Astrid Thors, Antonios Trakatellis, Kathleen Van Brempt and Phillip Whitehead .

The opinion of the Committee on Legal Affairs and the Internal Market on the legal basis is attached; the Committee on Industry, External Trade, Research and Energy decided on 19 March 2002 not to deliver an opinion.

The report was tabled on 11 September 2002.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council decision approving, on behalf of the European Community, the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade (COM(2001) 802 – C5-0095/2002 – 2002/0030(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2001) 802¹),
 - having regard to the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade,
 - having regard to Articles 133 and 300(2), first subparagraph, first sentence of the EC Treaty,
 - having regard to Council letter of 23 May 2002 on the proposed change of the legal basis and its procedural implications,
 - having been consulted by the Council pursuant to Article 300(3), first subparagraph of the EC Treaty (C5-0095/2002),
 - having regard to Rule 67 and 97(7) of its Rules of Procedure,
 - having regard to the opinion of the Committee on Legal Affairs and the Internal Market on the proposed legal basis,
 - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy (A5-0290/2002),
1. Approves the Commission proposal as amended;
 - 1a. Asks the Council to approve and ratify as soon as possible, on behalf of the European Community, the Rotterdam Convention;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Preamble 1

Having regard to the Treaty establishing

Having regard to the Treaty establishing

¹ OJ C 126E, 28.5.2002, p. 274

the European Community, and in particular **Article 133**, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

the European Community, and in particular **Article 175(1)**, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) thereof,

Justification

The aim of the convention is essentially to protect human health and the environment. In addition, the Rotterdam Convention contains several elements similar to the Cartagena Protocol which was the subject of a recent opinion of the European Court of Justice. The use of Article 133 as a legal basis seems to be contrary to the reasoning followed by the Court in the Cartagena Opinion.

Amendment 2 Recital 6 a (new)

(6 a) The Commission and the Member States shall take the necessary initiatives to ensure appropriate representation of the Community in the different bodies implementing the Convention. In particular, they shall seek to ensure that the Commission receives a seat in the subsidiary bodies established by the Convention.

Justification

Self-explanatory

Amendment 3 Article 2, paragraph 2

The person or persons empowered to deposit the instrument of approval shall at the same time deposit a declaration of competence, as required by Article 25(3) of the Convention, stating ***that the Community is competent in respect of all matters governed*** by the Convention.

The person or persons empowered to deposit the instrument of approval shall at the same time deposit a declaration of competence, as required by Article 25(3) of the Convention, stating ***the extent of the respective competences of the Community and the Member States in respect of matters covered*** by the Convention.

Justification

As a consequence of the change of the legal basis, the Convention will not be exclusive competence of the Community.

EXPLANATORY STATEMENT

Background

The Commission proposal under examination seeks to approve, on behalf of the European Community, the Rotterdam Convention on the Prior Informed Consent Procedure for certain hazardous chemicals and pesticides in international trade. In parallel the Commission has also presented a proposal for a regulation implementing the provisions of the Convention within the Community (COM(2001) 803).

The growth in world trade in chemicals during the 60s and the 70s led to increasing concerns about the risks of using hazardous chemicals and, as a response to these concerns, to the development in 1985 of the International Code of Conduct on the Distribution and Use of Pesticides by the Food and Agriculture Organisation of the United Nations (FAO), and in 1987 of the London Guidelines for the Exchange of Information on Chemicals in International Trade by the United Nations Environment Programme (UNEP). The procedure known as Prior Informed Consent (PIC) was added in 1989 to help control imports of unwanted chemicals that have been banned or severely restricted. The aim of the procedure was to promote a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of certain hazardous chemicals being traded internationally. The PIC procedure has been operating on a voluntary basis since 1989 and is currently being applied by around 145 countries. At the 1992 Earth Summit in Rio, governments agreed that PIC should become a legally binding Convention by the year 2002.

In March 1998 the negotiations for such a Convention were opened under the auspices of the FAO and the UNEP. The Convention was signed by the Community on 11 September 1998. As of 1 September 2001, there were 73 signatories to the Convention and 16 countries had ratified. Since 50 ratifications are needed for entry into force, it is expected that this will happen by 2003.

Key elements of the Rotterdam Convention

The Convention has the objective of promoting *"shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to the Parties"*.

The Convention covers chemical substances (as a substance in itself or in a mixture or preparation) in the form of pesticides and industrial chemicals that have been banned or severely restricted by final regulatory action for health or environmental reasons. Certain specific groups of chemicals such as narcotic drugs and psychotropic substances, radioactive materials, wastes, chemical weapons, pharmaceuticals, food and food additives are excluded from the scope of the Convention. Also excluded are chemicals in quantities not likely to affect human health or the environment, provided they are imported for research or analysis purposes or by an individual for personal use in quantities reasonable for such use.

The basic principle of the Convention is that the export of a banned or severely restricted chemical which is included in Annex III to the Convention can only take place with the PIC

of the importing Party. A procedure is established for obtaining and making known the decisions of importing countries as to whether they wish to import a certain chemical and for ensuring compliance with these decisions by exporting countries. Currently 26 pesticides and 5 industrial chemicals or groups of chemicals are subject to the PIC procedure.

A mechanism for including further substances, provided that certain criteria are met, is also established. This is based on the principle that a chemical can qualify for inclusion on the "PIC list" when it has been banned or severely restricted by two countries in two regions of the world. The Chemical Review Committee (CRC), composed of government-designated experts in chemicals management evaluates the information on the chemical received by the Parties and, if the relevant criteria are met, a decision guidance document is drafted recommending to the Conference of Parties that the chemical be included in the PIC procedure.

The other key pillar of the Convention relates to the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported. The main provision in this regard is the requirement that a Party that plans to export a chemical that is banned or severely restricted for use within its territory, must inform the importing Party that such export will take place, before the first shipment and annually thereafter (the so-called "export notification" procedure) until the chemical becomes subject to the PIC procedure and the importing party has provided an import response for the chemical which has been distributed to the Parties. In addition, the exporting Party must require that exports of chemicals included in the PIC procedure are subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.

Remarks

Your rapporteur supports the objectives of the Rotterdam Convention and considers it to be a major step towards ensuring the protection of human health and the environment in all countries from the possible dangers resulting from trade in hazardous chemicals and pesticides. He therefore recommends the approval of the Convention by the European Community. He also asks the Council to approve and ratify as soon as possible the Convention, which provisions are to a large extent already applied in the Community under (EEC) regulation n.2455/92 or by the industry on a voluntary basis.

However, your rapporteur questions the appropriateness of article 133 EC as legal basis for the proposal. While the European Commission considers that *"although the Convention is intended to serve a number of aims, its main objective and its core provisions relate to rules and procedures for the international trade of certain hazardous chemicals"*, your rapporteur maintains that the aim of the Rotterdam Convention is essentially, if not exclusively, to protect human health and the environment and that the Commission proposal should therefore be based on article 175(1) EC. In addition, existing Community rules governing the import and export of certain dangerous chemicals are based on Article 130S EEC (now Article 175(4) EC) and not on Article 133.

Pursuant to Rule 63(2) of the Rules of Procedure, the Committee on Legal Affairs and the Internal Market has been asked to examine the issue and has delivered the opinion attached, which supports your rapporteur's views. The Council has also taken the same line on the need to change the legal basis. Your rapporteur therefore recommends to amend the legal basis of

the Commission proposal accordingly.

This would have as a consequence the mandatory consultation (instead of the optional consultation) of the European Parliament.

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Committee on Legal Affairs and the Internal Market
The Chairman

Mrs Jackson
Chairman
Committee on the Environment, Public Health and Consumer Policy
BRUSSELS

Subject: Legal basis of the proposal for a Council decision approving, on behalf of the European Community, the Rotterdam convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade - COM(2001) 802

Dear Madam President,

By letter of 10 April 2002 you requested the Committee on Legal Affairs and the Internal Market, under Rule 63(2), to consider the issue of the appropriate legal basis for the above proposal. You did so because, while the Commission had based its proposal on Article 133, in conjunction with the first sentence of the first subparagraph of Article 300(2) and the first subparagraph of Article 300(3) of the EC Treaty, you took the view that the use of Article 133 of the EC Treaty would be contrary to Opinion 2/00 of 6 December 2001 of the European Court of Justice.

The Committee on Legal Affairs and the Internal Market considered the above question at its meeting of 20 June 2002.

The Rotterdam convention on the prior informed consent procedure for certain hazardous chemicals and pesticides in international trade is open for signature at Rotterdam by all States and regional economic integration organisations and was signed on behalf of the European Community on 11 September 1998. The Convention is not yet in force as it will enter into force once 50 instruments of ratification are deposited (Article 26 of the Convention).

The Convention covers pesticides and industrial chemicals that have been banned or severely restricted for health or environmental reasons by participating Parties, and which have been subject to notification by Parties for inclusion in the Prior Informed Consent (hereafter PIC)

procedure. In addition, acutely toxic pesticide formulations that present a hazard under the conditions of use in developing country Parties or Parties with economies in transition may also be included. The inclusion of chemicals in the PIC procedure is decided by the Conference of the Parties. The Convention will initially include at least 27 chemicals carried forward from the present voluntary PIC procedure.

There is also an exclusion for certain specific groups of chemicals such as narcotic drugs and psychotropic substances, radioactive materials, wastes, chemical weapons, pharmaceuticals, food and food additives. Also excluded from the scope of the Convention are chemicals in quantities not likely to affect human health or the environment, provided they are imported for research or analysis purposes or by an individual for personal use in quantities reasonable for such use.

The Convention will enable to monitor and control the trade in very dangerous substances. It gives importing countries the power to decide which chemicals they want to receive and to exclude those they cannot manage safely. If trade does take place, requirements for labelling and provision of information on potential health and environmental effects are provided for in the aim of promoting the safe use of these chemicals.

According to the Convention, export of a chemical can only take place with the prior informed consent of the importing Party. The mandatory Prior Informed Consent (PIC) procedure replaces the current voluntary PIC procedure which has been operated by UNEP and FAO since 1989. It is a means for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of a certain chemical and for ensuring compliance to these decisions by exporting countries. The aim is to promote a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of such chemicals.

The second key element of the Convention are its provisions for the exchange of information among Parties about potentially hazardous chemicals that may be exported and imported and provides for a national decision-making process regarding import and compliance by exporters with these decisions.

The provisions regarding information exchange include:

- the requirement for a Party to inform other Parties of each ban or severe restriction on a chemical it implements nationally;
- the possibility for a developing country Party or a Party with an economy in transition to inform other Parties that it is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory;
- the requirement for a Party that plans to export a chemical that is banned or severely restricted for use within its territory, to inform the importing Party that such export will take place, before the first shipment and annually thereafter;
- the requirement that an exporting Party, when exporting chemicals that are to be used for occupational purposes, shall ensure that a safety data sheet that follows an internationally recognised format, setting out the most up-to-date information available, is sent to the importer;
- the requirement that exports of chemicals included in the PIC procedure and other chemicals that are banned or severely restricted domestically, when exported, are subject to labelling

requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment.

Decisions taken by the importing Party must be trade neutral, i.e., if the Party decides it does not consent to accepting imports of a specific chemical, it must also stop domestic production of the chemical for domestic use or imports from any non-party.

The Convention provides for technical assistance between Parties. Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle.

The proposed decision approves, on behalf of the European Community, the Rotterdam Convention. In parallel to this proposed decision, the Commission also put forward a proposal for a Council Regulation to implement the Convention's provisions - COM(2001) 803.

The Committee on Legal Affairs and the Internal market is essentially asked to verify the choice of the appropriate legal basis for the measure by which the Council proposes to conclude the Convention and, in particular, on whether the Community's consent to be bound by it should be founded on Articles 133 and 175 EC, and second, to consider whether the powers which the Member States would continue to exercise by reason of their participation in the Convention alongside the Community are, having regard to the matters covered, residual or preponderant in relation to those of the Community.

The ECJ has stated that the choice of the appropriate legal basis has constitutional significance. Since the Community has conferred powers only, it must tie the Convention to a Treaty provision which empowers it to approve such a measure. To proceed on an incorrect legal basis is therefore liable to invalidate the act concluding the agreement and so vitiate the Community's consent to be bound by the agreement it has signed.

The ECJ has consistently stated that invalidation of the measure concluding the agreement because of an error as to its legal basis is liable to create, both at Community level and in the international legal order, complications.

Article 133 EC constitutes the legal basis for autonomous and contractual acts of the Community which specifically regulate trade, unless they are expressly contemplated by other provisions of the EC Treaty. The Council is entitled to adopt autonomous and contractual commercial policy measures by a qualified majority vote [Article 133(4) of the EC Treaty].

Article 174 EC defines the objectives to be pursued in the context of environmental policy, while Article 175 EC constitutes the legal basis on which Community measures are adopted. It is true that Article 174(4) EC specifically provides that the "arrangements for Community cooperation with non-member countries and international organisations 'may be the subject of agreements ... negotiated and concluded in accordance with Article 300". However, in the present case, the Convention does not merely establish arrangements for cooperation regarding environmental protection, but lays down, in particular, precise rules on prior consent procedures relating to transboundary movements of chemicals.

Article 300 EC sets out the procedure which the Community has to follow where the Treaty provides for the conclusion of agreements between the Community and one or more states or international organisations. That Treaty provision does not itself confer any power on the Community to act internationally, but applies whenever the Community wishes to conclude an agreement pursuant to a power contained expressly or impliedly in the Treaty.

The procedural requirements apply to amendments of agreements and to additional or implementing protocols concluded together with or on the basis of the agreement itself. The denunciation of an agreement also falls under the scope of Article 300 EC.

In conferring certain powers on the Community institutions, Article 300 EC seeks to establish a balance between the institutions. The general rule laid down in the EC Treaty is that, except in the case of tariff and trade agreements, the Council concludes agreements after consulting the European Parliament, even where the agreement covers a field for which the co-decision procedure or the cooperation procedure is required for the adoption of internal rules [Article 300(3), first subparagraph, first sentence EC]. The European Parliament also has to be consulted where no involvement at all of the European Parliament is prescribed for the adoption of internal rules.

In the case of four categories of agreement, the EC Treaty makes their conclusion dependent upon the prior assent of the European Parliament [Article 300(3), second subparagraph EC]. The assent procedure applies to association agreements within the meaning of Article 310 EC; other agreements establishing a specific institutional framework by organising cooperation procedures; agreements having important budgetary implications for the Community; and agreements entailing amendment of an act adopted under the procedure laid down in Article 251 EC. Accordingly, the Council may not, by means of an international agreement, detract from internal legislation which the European Parliament and the Council adopted under the codecision procedure. However, so long as no internal act has been adopted, the Council is entitled to conclude international agreements in the field in question after merely consulting the European Parliament.

The objective of the Convention is the protection of human health and the environment. Its content is i) to facilitate information exchange about chemicals' characteristics; ii) to provide a national decision-making process on import and export of certain hazardous chemicals; and iii) to disseminate these decisions to Parties.

It is settled case-law that the choice of the legal basis for a measure, including one adopted in order to conclude an international agreement, does not follow from its author's conviction alone, but must rest on objective factors which are amenable to judicial review. Those factors include in particular the aim and the content of the measure.

If examination of a Community measure reveals that it pursues a twofold purpose or that it has a twofold component and if one is identifiable as the main or predominant purpose or component, whereas the other is merely incidental, the measure must be founded on a single legal basis, namely that required by the main or predominant purpose or component (see Case C-155/91 *Commission v Council* [1993] ECR I-939, paragraphs 19 and 21 (waste directive judgement), Case C-42/97 *Parliament v Council* [1999] ECR I-869, paragraphs 39 and 40, and Case C-36/98 *Spain v Council* [2001] ECR I-779, paragraph 59). By way of exception, if it is established that the measure simultaneously pursues several objectives which are inseparably linked without one being secondary and indirect in relation to the other, the measure may be

founded on the corresponding legal bases (see, to that effect, the Case C-300/89 Commission v Council [1991] ECR I-2867, paragraphs 13 and 17 (titanium dioxide judgement), and Case C-42/97 Parliament v Council, paragraph 38).

It should also be recalled that, under Article 31 of the Vienna Convention on the Law of Treaties, a treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.

In the present case, application of those criteria amounts to asking whether the Convention, in the light of its context, its aim and its content, constitutes an agreement principally concerning environmental protection which is liable to have incidental effects on international trade in certain hazardous chemicals and pesticides, whether, conversely, it is principally an agreement concerning international trade policy which incidentally takes account of certain environmental requirements, or whether it is inextricably concerned both with environmental protection and with international trade.

It is established that the Convention was drawn up aimed at making information about hazardous chemicals more freely available, thus permitting competent authorities in countries to assess the risks associated with use of chemicals in their own country.

It is not in dispute that the Convention is an instrument falling within the field of environmental protection. It results from the United Nations Conference on Environment and Development held in Rio de Janeiro in 1992. Article 1 of the Convention states, in particular, that its objectives are 'to protect human health and the environment from potential harm and to contribute to their environmentally sound use'.

In accordance with Article 31 of the Vienna Convention on the Law of Treaties, it is by reference to that context that it is necessary to identify the purpose and define the subject-matter of the Convention.

As to the Convention's content, there is a clear reflection of its environmental aim in the obligation imposed on the Parties by Article 10 to prevent the risks of potential harm to the environment.

It follows from the above considerations that the main purpose of the Convention is the protection of human health and the environment against the harmful effects which could result from the use of hazardous chemicals and pesticides, in particular from their transboundary movement.

It is true that numerous provisions of the Convention relate specifically to international trade in hazardous chemicals and pesticides, in particular export and import of chemicals. However, the fact remains that, as shown by the above considerations, the Convention is, in the light of its context, its aim and its content, an instrument intended essentially to protect the environment and not to promote or facilitate trade.

As stated in Article 2(f) of the Annex to the draft Council decision, the terms 'export' and 'import' mean the movement of a chemical from one Party to another Party, but exclude mere transit operations. Such a definition, which is particularly wide, is intended to cover any form of movement of chemicals between States, whether or not the movements are for commercial purposes. It encompasses also illegal and unintentional transboundary movements of chemicals.

It follows from all of the foregoing considerations that conclusion of the Convention on behalf of the Community must be founded on a single legal basis, specific to environmental policy. Consequently, Article 175(1) EC Treaty, in conjunction with Article 300(2), first sentence of the first subparagraph, and Article 300(3), first subparagraph of the EC Treaty is the appropriate legal basis for conclusion of the Convention on behalf of the Community.

The Committee on Legal Affairs and the Internal Market thus decided unanimously that Article 175(1) EC Treaty, in conjunction with Article 300(2), first sentence of the first subparagraph, and Article 300(3), first subparagraph of the EC Treaty is the appropriate legal basis.

Yours sincerely,

(s) Giuseppe Gargani