

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 28 May 1975

Proposal for a
COUNCIL DECISION (EEC)

authorising the Commission to open negotiations with the Council of Europe on the accession of the Community to the European Convention for the protection of animals during international transport

Proposal for a
COUNCIL DECISION (EEC)

concluding the European Convention for the Protection of Animals during International Transport and introducing the provisions necessary for its application to intra-Community trade

(submitted by the Commission to the Council)

Communication to the Council

1. Accession by the Community to the European Convention for the protection of animals during international transport.
2. Application of the Convention in intra-Community trade.

The Convention was drawn up by the Council of Europe and signed in Paris on 13 December 1968.

It includes a set of provisions designed to prevent animals suffering during international transport.

Such an objective corresponds entirely to the concerns of the Community, which has, besides, already undertaken certain actions in the field of protection of animals, which are completed by the present proposal.

The general problem of speedy and simultaneous ratification of this Convention by the Member States, and also that of Community accession, have been discussed by the competent bodies of the Council.

On the advisability of accession, the Commission believes that if the Convention is to be simply an international agreement, the manner of its application could give rise to dispute which might lead to infractions of Community law, and prejudice common market operations, since the Community could find itself subject to two sets of regulations differing both in substance and in the related procedures (the Convention provides for the settlement of differences by arbitration procedure: cf. Article 47). And on the same assumption, since Member States would be bound, in this field, by an "external" agreement, it would be difficult for the Community subsequently to introduce legislation covering the same field, unless it were simply to adopt the provisions of the Convention as they stood.

However, the subject of this Convention is obviously a matter of concern for the common market and the Community should therefore give thought to introducing its own rules, in particular by harmonizing provisions already in force in certain Member States. Such rules, which could have been adopted unilaterally, could also flow from common Community action, being introduced in conjunction with the conclusion of an agreement with non-member countries covering the entire problem.

The two proposals attached were drawn up with this in view.

The first authorizes the Commission to negotiate the Community's accession to the Convention with the Council of Europe, together with certain amendments relating to its application to intra-Community trade. These amendments arise from the application, within the Community, of the basic rules laid down by the Convention; their object is to make the provisions of the Convention as effective as possible by providing for recourse to Community procedures in respect of any disputes arising.

The second proposal is intended to give concrete form to the measures taken pursuant to the first; i.e., to conclude the Convention on behalf of the Community and lay down the precise terms on which the Convention will be applied in intra-Community trade.

Clearly, these proposals are so drafted that the second can only be adopted on successful completion of the negotiations opened by the Commission pursuant to the first. The Commission transmits this second proposal to the Council herewith to provide the latter with an overall view of the projected measure immediately.

Proposal for a
COUNCIL DECISION (EEC)

authorising the Commission to open negotiations with
the Council of Europe on the accession of the Community
to the European Convention for the protection of animals
during international transport

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community;

Having regard to the proposal from the Commission;

Whereas a European Convention on the Protection of Animals during International
Transport has been set up under the auspices of the Council of Europe;

Whereas the majority of Member States have already signed and ratified this
Convention;

Whereas Community legislation on the same matter has proved necessary to avoid
obstacles to the free trade of live animals within the common market;

Whereas the accession of the Community will provide a satisfactory basis for
such legislation.

HAS DECIDED AS FOLLOWS:

Sole Article

1. The Commission is authorised to open negotiations with the Council
of Europe for the accession of the Community to the European Convention
for the Protection of Animals during International Transport.
2. The Commission shall conduct these negotiations in accordance with the
directives annexed to this Decision.

Done at Brussels

For the Council

The President

ANNEX

The object of the negotiations undertaken by the Commission is to:

- 1) establish and insert into the said Convention the appropriate provisions allowing the accession of the Community;
- 2) proceed so that the Convention is applied within the Community by introducing a Community procedure for the settlement of disputes in conformity with the Community rules applied in this field.

Proposal for a
COUNCIL DECISION (EEC)

concluding the European Convention for the Protection of Animals during International Transport and introducing the provisions necessary for its application to intra-Community trade

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community and in particular Article 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas by decision of the Council the Commission has been authorised to open negotiations with the Council of Europe on the accession of the Community to the European Convention for the Protection of Animals during International Transport;

Whereas the Community should without delay accede to the said Convention;

Whereas it is necessary to establish the conditions under which this Convention is applied to transport of animals between Member States in accordance with existing Community legislation.

HAS ADOPTED THE FOLLOWING DECISION

Article One

The European Convention for the Protection of Animals during International Transport is hereby concluded on behalf of the Community. The text of the Convention is contained in the Annex to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person empowered to sign the Agreement mentioned in article one and to confer on them the powers required to bind the Community.

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Article 3

The provisions of the Convention mentioned in article 1 are applicable to the transport of animals between Member States with the exception of Chapter VII, taking into account the following articles.

Article 4

1. For the application mentioned in article 3 the following definitions are to be used:
 - (a) "official veterinarian" means the veterinarian designated by the competent central authority of the Member State;
 - (b) "country of despatch" means the Member State from which animals are sent to another Member State;
 - (c) "country of destination" means the Member State to which animals are sent from another Member State;
 - (d) "consignment" means a number of animals covered by the same certificate;
 - (e) "means of transport" means those parts of motor vehicles, rail vehicles and aircraft set aside for loading and the holds of ships or containers for land, sea or air transport;
 - (f) "transport" means a movement of animals from one Member State to another Member State which includes the use of a means of transport.
2. The certificate mentioned in article 3 of the Convention is, for animals of the bovine and porcine species, the certificate foreseen in Annex F of Council Directive EEC/64/432 of 26 June 1964 completed by the following words preceding the signature: "The animals are fit for transport in the sense of the European Convention for the protection of animals during international transport".

In relation to animals of other species, and until the entry into force of Community provisions in the matter, these words shall figure in the health certificate required by national legislation, or in a separate certificate.

Article 5

When, during the course of transport, it is found that the dispositions of the present Decision are not or no longer respected, the competent authority of the Member State in the territory of which this finding is made, shall take the appropriate action to remedy the situation, as far as is possible, without prejudice to the measures which may be taken in application of article 6.

Nevertheless, the consignment may only be held up if such a measure is indispensable for the welfare of the animals.

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Article 6

When a Member State considers that the provisions governing transport of a consignment of animals are not, or are no longer observed in another Member State, it shall inform the competent authority of that State accordingly. The latter shall take all necessary measures and notify the competent central authority of the other Member State of the decisions taken and the reasons for such decisions.

If that other Member State fears that the necessary measures have not been taken or are inadequate, it shall inform the Commission accordingly, which may seek the opinion of one or more veterinary experts.

Veterinary experts must be national of a Member State other than those involved in the dispute.

After consulting the Member States, the Commission shall lay down the general rules for applying this article, in particular as regards the appointment of veterinary experts and the procedure to be followed as regards delivery of an opinion by them.

Article 7

1. Where the procedure laid down in this Article is to be followed, matters shall be referred by the Chairman, either on his own initiative or at the request of a Member State, to the Standing Veterinary Committee (hereinafter called "the Committee") set up by the Council Decision of 15 October 1968.
2. Within the Committee the votes of Member States shall be weighted as provided for in Article 148(2) of the Treaty. The Chairman shall not vote.
3. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver its opinion on the measures within two days. Opinions shall be delivered by a qualified majority of 41 votes.
4. The Commission shall adopt measures which shall apply immediately where they are not in accordance with the opinion of the Committee. However if they are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit to the Council the measures to be adopted.

The Council shall adopt the measures by a qualified majority. If within three months from the date on which the proposal was submitted to it, the Council has not adopted any measures, the Commission shall adopt the proposed measures and apply them immediately.

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Article 8

The provisions of this Decision shall be without prejudice to Community legislation concerning health problems, in particular to the provisions laid down in Council Directive EEC/64/432 of 26 June 1964, on animal health problems affecting intra-Community trade in bovine animals and swine.

Article 9

In the event that the application of the present Decision should necessitate the specification of certain methods of execution, and notably to remedy situations involving national regulations, which in other respects conform with the objectives sought but which also include methods of such a nature as to cause difficulties in trade, the appropriate measures shall be taken according to the procedure provided for in Article 7.

Article 10

This Decision is addressed to the Member States.

Done at Brussels

For the Council

The President