



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.12.2000
COM(2000)760 final

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Community, of the United Nations Convention against transnational organised crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea

(presented by the Commission)

EXPLANATORY MEMORANDUM

In response to the Commission's recommendations, the Council authorised the Commission to negotiate, in respect of matters for which the Community is competent, the draft United Nations Convention against transnational organised crime,¹ supplemented by three Protocols on combating trafficking in persons, especially women and children, the smuggling of migrants by land, air and sea,² and illicit manufacturing of and trafficking in firearms and munitions.³

Negotiations on these instruments, with the exception of the firearms protocol, were concluded at the tenth session held in Vienna from 17 to 28 July (Convention against transnational organised crime) and those on the Protocols on combating trafficking in persons and the smuggling of migrants at the eleventh session from 2 to 27 October 2000.

One of the most important negotiating directives given by the Council to the Commission was preparing for the accession of the Community to the Convention and its Protocols, given Community competence for certain aspects of the instruments in question.

The draft Convention and Protocols resulting from the Commission's negotiations provide that regional economic integration organisations, and hence the European Community, may become members.

As regards the other aspects of the negotiations, the objectives set by the Council in its directives were also attained. The Convention provides for a high standard of measures to combat money laundering (Article 4a) that also conform to the Community *acquis* on measures to prevent the financial system from being used to launder money, whilst the preparatory work accompanying the text of the Protocol refers to the standards established by the Financial Action Task Force on Money Laundering.

The Protocols on trafficking in human beings ("the Persons Protocol") and the smuggling of migrants ("the Migrants Protocol") contain identical provisions on measures to be taken at borders (Article 8 of the Persons Protocol, Article 9 of the Migrants Protocol). As provided in the negotiating directives, these are of a standard that complies with the *acquis communautaire*, in particular with Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985, and they provide for the possibility of closer cooperation between border control authorities. The two Protocols also contain identical Articles requiring the Contracting Parties to verify the legitimacy and validity of travel and identity documents issued in their name where there is a suspicion that they are being used for the purposes of trafficking in persons or the smuggling of migrants (Article 9a of the Persons Protocol, Article 13 of the Migrants Protocol).

The Conference at which the Convention and the Protocols will be signed will be held in Palermo from 12 to 15 December 2000.

¹ Decision of 2 May 2000.

² Decision of 14 February 2000.

³ Decision of 31 January 2000.

As the Member States have stated that they will sign the instruments as soon as they have been opened for signing in Palermo, the European Community should be in a position to sign as well. To that end, the Presidency of the Council must designate the persons empowered to sign the Convention on organised crime and its Protocols on behalf of the European Community.

The proposal for a Council decision presented by the Commission contains a sole Article authorising the President of the Council to designate the persons empowered to sign, on behalf of the European Community, the Convention on transnational organised crime and its Protocols on combating trafficking in persons and the smuggling of migrants.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 47, 62(2)(a), 63(3)(b), 95 read in conjunction with the first subparagraph of Article 300(2) thereof;

Having regard to the proposal from the Commission,

Whereas:

- (1) The elements of the Convention and the two Protocols thereto which are subject to Community competence were negotiated by the Commission, with the approval of the Council, on behalf of the Community.
- (2) The Council also instructed the Commission to negotiate the accession of the Community to the international agreements in question.
- (3) Negotiations were successfully concluded and the resulting instruments will be open for signing by the States and, within their areas of competence, by regional organisations for economic integration in Palermo from 12 to 15 December 2000 and thereafter at the United Nations headquarters for a period of two years.
- (4) The Member States having stated that they will sign the instruments as soon as they are open for signing in Palermo, the European Community should also be able to sign,

HAS DECIDED AS FOLLOWS:

Sole Article

- (1) The President of the Council is authorised to designate the persons who are empowered, on behalf of the Community, to sign the Convention against transnational organised crime and the protocols thereto on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea.

(2) The text of the Convention and its additional protocols, which have been adopted by the General Assembly of the United Nations in its Resolution n° 25 of 15 November 2000, will be published in the Official Journal upon accession of the Community.

Done at Brussels,

*For the Council,
The President*