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Subject: Recommendation for a Council decision authorising the Commission, acting on behalf of the European Community, to open negotiations with a view to adopting a Convention on Choice of Court Clauses within the framework of the Hague Conference on Private International Law

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

RESTREINT UE



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Brussels, 31 October 2003

14187/03

RESTREINT UE

JUSTCIV 226

NOTE

from :	Austrian delegation
to :	Committee on Civil Law Matters (General questions)
No. prev. doc.	14013/03 JUSTCIV 214 (RESTREINT UE)
No. Cion prop. :	12208/03 JUSTCIV 146 (RESTREINT UE)
Subject :	Recommendation for a Council decision authorising the Commission, acting on behalf of the European Community, to open negotiations with a view to adopting a Convention on Choice of Court Clauses within the framework of the Hague Conference on Private International Law

(i) External Competence and the Working Methods to be Employed

Austria does not fully share the position of the European Commission on the issue of external competence. At least the provisions on recognition and enforcement of judgements of Non-Member-States do not fall within the exclusive external competence of Community.

On the working methods, we are open for all kinds of workable solutions. European interests should be expressed as strongly and uniformly as possible.

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(ii) Negotiating Directives

In principle, Austria can accept the negotiating directives. However, we regret that the directives are rather vague which might raise problems in the coordination meetings in The Hague.

In point 1 (b), there seems to be a (typing?) error. If the jurisdiction rules of the convention should also refer to “non exclusive” choice of court clauses, there would be a clear need for a lis pendens – rule.

Concerning existing and future Community legislation on intellectual property rights (point 1 [c]), we would prefer a solution in a disconnection clause on “instruments on particular matters” (cf. Article 71 Brussels I), not in a provision on the scope.

In point 1 (d), we could accept both options.

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