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

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

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I/A ITEM NOTE

from : Committee on Civil Law Matters (General Questions)

to Coreper Part II/Council

No. prev. doc. : 14401/04 JUSTCIV 169 MAR 192 (RESTREINT UE)

Subject : Guidelines relating to the negotiations to be held in Vienna, from 29 November to 10 December 2004, within the framework of the United Nations Commission for International Trade Law (UNCITRAL), for an instrument on the international carriage of goods.

1. The Commission has announced its intention to present a draft recommendation for a Council Decision authorising the Commission to negotiate, within the framework of the United Nations Commission for International Trade Law (UNCITRAL), an instrument on the international carriage of goods.

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2. However, considering that the Commission is not in a position to adopt such a draft Recommendation internally before the next session of the working group of the UNCITRAL, which will be held in Vienna from 29 November to 10 December 2004, and since it is clear that the draft instrument negotiated within the framework of the UNCITRAL contains provisions which fall within the exclusive competence of the Community, the Committee on Civil Law Matters (General Questions) considered useful to establish a few flexible guidelines for the exploratory work to be done by the Community during next session of the negotiations.
3. The Committee on Civil Law Matters (General Questions) examined this question during its meetings on 18 October¹ and 16 November 2004² and suggested that the Commission shall act during the next meeting of the Working Group of UNCITRAL on the basis of the guidelines set out in Annex.
4. The Committee on Civil Law Matters (General Questions) proposes that Coreper/Council accepts this procedure.

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¹ On the basis of a Working Document submitted by the Services of the Commission (DS 695/04 RESTREINT UE)

² On the basis of a document submitted by the Presidency (14401/04 JUSTCIV 169 MAR 192 (RESTREINT UE))

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ANNEX

Guidelines for work on jurisdiction provisions to be done within the UNCITRAL Working Group III (Transport Law), 14th Session, that will take place in Vienna from 29 November to 10 December 2004

1. It shall be ensured that the interests of the Community are safeguarded in the future instrument on the international carriage of goods negotiated within the framework of the United Nations Commission for the International Trade Law. Due account shall be taken to the need to seek a balance between the interests of the parties involved in maritime carriage.
2. It shall be endeavoured to negotiate provisions concerning jurisdiction in the future instrument. In particular, the following options could be explored:
 - a) to have provisions in the future instrument on jurisdiction that are as close as possible with those contained in Council Regulation (EC) n° 44/2001 of 22 December 2000;
 - b) to have provisions in the future instrument containing a limited number of rules on jurisdiction, including on prorogation of jurisdiction, that would adequately safeguard the interests of the parties involved and promote widespread ratification;
 - c) to consider possible solutions with a view to avoiding concurrent proceedings in two or more Contracting States.
3. On the assumption that jurisdiction rules are introduced, it shall be ensured that the future instrument contains appropriate provisions authorizing the Community to become a party to it.