

**CONV 715/03**

**CONTRIB 317**

**NOTE DE TRANSMISSION**

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du: Secrétariat

à la: Convention

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Objet: Contribution présentée par M. Jens-Peter Bonde, membre de la Convention:  
- "Proposition portant sur la partie II de la Constitution et concernant la protection  
de l'environnement "

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Le Secrétaire général de la Convention a reçu la contribution figurant en annexe de M. Jens-Peter Bonde, membre de la Convention.

## **Proposal to part II of the Convention - on environmental protection**

Contribution from Jens-Peter Bonde, proposed in collaboration with, Ulla Sandbæk and Bent Hindrup Andersen.

### **Introduction**

The proposal has following aims:

Member States shall be allowed to pioneer higher standards for the protection of health, safety, workers environment, consumer protection, veterinary and environmental protection.

The measures shall be notified to the Commission and shall be deemed approved if not amended through the legislative procedure within 12 month after notification.

If the measures discriminate other Member States or are aimed for economic protectionism the Commission may propose an economic compensation to be paid by the Member States concerned to be paid to other member states or third countries.

When the EU legislates minimum rules shall always be preferred for total harmonisation.

Total harmonisation shall always be based at the highest standard for protection, eventually by permitting (temporary) derogation for some Member States.

### **Proposal**

TEC Art. 95,3

Concerning Commission proposals for health, safety, and environment protection.

Add: **veterinary and** environmental protection.

Change "high level" into "**highest** level" of protection.

TEC Art. 95,5

Change "...based on **new** scientific evidence relating to the protection of the environment or..." into "...based **on the precautionary principle or** on scientific evidence relating to the protection of the environment or..."

TEC 95,6

Delete **or a disguised restriction on trade between Member States and whether or not they shall constitute an obstacle to the functioning of the internal market. And the rest of the article**

Add instead:

If the Commission finds that the measures decided by a Member State or group of Member States for protecting the environment and the other purposes mentioned in art. 95,3 and 95,4 may disturb trade between Member States or the functioning of the internal market the Commission may propose measures or compensations to be adopted through the legislative procedure.

If a specific measure is not adopted within 12 month the measures introduced by the Member State or a group of Member States shall be deemed to have been approved.

## **Explanation**

Harmonisation in the field of health, safety, working environment, veterinary standards, consumer protection and environmental protection shall always be based on the highest level of protection and not the more arbitrary “high level”.

If the highest level rise problems for some Member States the Commission may propose temporary derogation for those countries without hindering countries to pioneer higher standards.

If Member States use the higher standards for protection as a mean for economic protectionism and discriminate import of products from other Member States the Commission may propose special measures or a compensation to be paid so that the pioneering of higher standards is not seen by poorer countries as economic discrimination.

Since the right balance may be rather sensitive such measures shall be adopted by elected representatives through the legislative procedure and not only by Commission civil servants.

By allowing pioneers to be innovative the EU can benefit from the experience in environment and animal friendly ways of protections. This can promote the decrees of diseases (like salmonella and mad cow disease) and be used to create more know-how used for export. This pioneer right would provide a reversed burden of proof opposite to the environmental guarantee art 95 (4-5) TEC.

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